

West Bengal Act XIII of 1979
THE WEST BENGAL TOWN AND COUNTRY (PLANNING AND DEVELOPMENT)
ACT, 1979.

CONTENTS

CHAPTER I

Preliminary.

Short title, extent and commencement.

1. Definitions.

2.

CHAPTER II

3.

State Town and Country Planning Advisory Board

State Town and Country Planning Advisory Board.

Composition of the Board.

Functions of the Board,

4.

Term of office and conditions of service of the members of the Board.

5.

Meeting of the Board.

6.

Quorum.

7.

CHAPTER III

8.

8. Declaration of Planning Areas and Constitution of Planning Authorities and Development Authorities

Declaration of Planning Areas, their amalgamation, sub-division and inclusion of any area in Planning Area.

Power to withdraw Planning Area from the operations of this Act.

Constitution of Planning Authority and Development Authority.

9.

Term of office and terms and conditions of service of the Chairman and members of Planning Authority and Development Authority.

10.

Powers and functions of Planning Authority and Development Authority.

11.

12. Meeting of Planning Authorities and Development Authorities.

Constitution of Advisory Council.

13.

14.

15.

*7/ie IVi'si Herbal Town ("1 Country (Flaming and Devfjnpwin)
Aa, 1979.*

- [Weil Den. Acl

CHAPTER IV Kolkata Metropolitan Development Authority

Section,

[6. Kolkata Metropolitan Area.

17. Kolkata Metropolitan Development Authority.

18. Powers and functions of the Kolkata Metropolitan Development Authority. i. Composition of the Kolkata Metropolitan Development Authority.

20. Meeting of the Kolkata Metropolitan Development Authority.

21. Power to Appoint Officers and Secretary, and other staff.

22. Advisory Council.

23. Constitution of Committees.

24. Power of the Kolkata Metropolitan Development Authority to give directions.

25. Power of the Kolkata Metropolitan Development Authority to execute any plan.

26. Delegation.

27. Amendment of the Kolkata Improvement Act, 1911, the Improvement Act, 1956, and the Kolkata Metropolitan Water and Sanitation Authority Act, 1966,

CHAPTER V Preparation of present Land Use Map

28. Preparation of present Land Use Map and Land Register.

29. Notice of the preparation of the Map and Land Register.

30. Power of State Government in case of default, of the Planning Authority or Development Authority to prepare the Map or the Register.

CHAPTER VI

Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval

31. Land Use and Development Control Plan.

32. (Omitted.)

33. Land Use and Development Control Plan prepared prior to the application of the provisions of the Land Use and Development Control Plan under this Act.

See Lion.

34. Power of State Government in relation to preparation of Land Use and Development Control Plan.
35. Approval of the State Government to the publication of notice of preparation of Land Use and Development Control Plan,
36. Public notice of the preparation of the Land Use and Development Control Plan.
37. Approval of the State Government.
38. **XIII of 1979** Coming into operation of the Land Use and Development Control Plan.
The West Bengal Town and Country (Planning and Development) Act, 1979 103
39. Reference to High Court questioning the validity of the Land Use and Development Control Plan.
40. Amendment of Land Use and Development Control Plan.
41. Changes in the Land Use and Development Control Plan.
42. Annulment of the Land Use and Development Control Plan.
- 42A. Validation of plan prepared or adopted prior to the coming into force of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994.
43. Power to acquire land under the Land Acquisition Act, 1894.

CHAPTER VII Control or Devtfl[>pincl and Use of Land

44. Use and development of land in conformity with Land Use and Development Control Plan.
45. Prohibition of development without payment of development charges said will be permission.
46. Permission for development.
47. Appeal against grant of permission subject to conditions or refusal of permission.
48. Appeal against refusal of permission.
49. Obligation to acquire land on refusal of permission or on grant of permission in certain cases.
50. Compensation for refusal of permission or grant of permission subject to conditions in certain cases.
51. Power of revocation and modification of permission to develop.
52. Penalty for unauthorised development or for use otherwise than in conformity with the Land Use and Development Control Plan.

Section.

- 53. Notice re curding unauthorised development or use oilierwise than in conformity willi the Land Use mid Development Conirol Pl:m.
- 54. Power to slop unauthorised development.
- 55. Power lo requite removal of unauhorised development or use.
- 56. Imcrim provision pending preparation of Land Use and Development Control Plan.

CHAPTER VIII Development. Schemes

- 57. Preparation of development schemes.
- 58. Scope of the developmcm schenic.
- 59. Ctuenis of tlie scheme,
- 60. RccoisULvHit)) of plot scheme,
- 61. Publication of die scheme,
- 62. Power of ilie State Government to require lite Development Authority to make scheiric.
- 63. Power of Suite Government lo suspend rules, by-law, etc.
- 64. Procedure in case of disputed claims to land.
- 65. Restrictions ort use and developmcm of l;md after the public at ion of ilie scheme.
- 66. Possession of laml in ndvance or development scheme.
- 67. Magistrate to enforce delivery of possession of land.
- 68. Persons interested in land of which possession is taken entitled to interest.
- 69. Consideration of objections and submission of scheme to die State Government
- 70. Public notice or tlie scheme
- 71. Withdrawal of scheme by the Development Authority.
- 72. Effect of scheme.
- 73. Determination of certain mutters by Hie Development Authority.
- 74. Appeal. !
- 75. Tribunal of Appeal. i
- 76. Place where Tribunal may sit.
- 77. Decision of q ties lions of law and nilicrnmmpiin-

Section..

78. Powers of Tribunal to decide matter finally.
79. Tribunal not to be Court.
80. Remuneration of Assessors and payment of incidental expenses of Tribunal.
81. Decision of the Development Authority to be final in certain matters.
- ~~82. Power of the Development Authority to evict summarily.~~
- ~~83. Power to enforce scheme.~~
- 84.** Power to vary scheme on ground of error, irregularity or infirmity.
85. Power to vary development scheme.
86. Apportionment of cost of scheme withdrawn.
87. Cost of development scheme.
88. Calculation of increment.
89. Contribution towards cost of scheme,
90. Certain amount to be added to or deducted from contribution leviable from person.
91. Transfer of rights from existing to reconstituted plot or extinction of such rights.
92. Damage in respect of property or right injuriously affected by scheme.
93. Exclusion or limitation of damage in certain cases.
94. Provision for cases in which amount payable (to owner exceeds amount due from him.
95. Provision for cases in which value of development plots is less than the amount payable by owner.
96. Payment by adjustment of account.
97. Payment of net amount due to Planning Authority or Development Authority.
98. Power of Development Authority to make agreement.
99. Recovery of arrears.
100. Disposal of surplus amount.
101. Execution of works in the scheme by the Development Authority.

CHAPTER IX

Levy, Assessment and Recovery of Development Charge

102. Levy of development charge.
103. Rates of development charges.
104. Assessment of development charge.
105. Appeals against assessment.
106. Development charge to be charged on land and to be recoverable as arrears of land revenue, 106A.
Levy of civic amenity charge.

106 *The West Bengal Town and Country (Planning and Development) Act, 1979.*

(West Bengal, Act)

CHAPTER X

* Finance, Accounts and Audit

Section.

107. Fund of the Planning Authority or Development Authority.
108. Fund of the Kolkata Metropolitan Development Authority.
109. Grants and subsidies by State Government.
110. Budget of the Planning Authority or Development Authority.
111. Accounts and Audit.
112. Annual reports.
113. Constitution of provident fund.
114. Power of the Planning Authority, Development Authority and the Kolkata Metropolitan Development Authority to borrow money.

CHAPTER XI Supplemental and Miscellaneous Provisions

115. Power of entry.
116. Service of notices.
117. Public notices to be made known.
118. Notices, etc., to fix reasonable time.
119. Amendment of orders and bye-laws of the Planning or Development Authority.
120. Mode of proof of records of the Planning Authority or Development Authority.
121. Restriction on the remuneration of officers and employees of the Planning Authority or Development Authority.
122. Offences by companies.
123. Penalty for obstruction or removing material.
124. Sanctions of prosecution.
125. Composition of offences.
126. Right to appear by recognised agent.
127. Power to compel attendance of witness, etc.
128. Jurisdiction of courts.
129. Fine when realised to be paid to Planning Authority or Development Authority.
130. Members, officers and employees to be public servants.

The West Bengal town and Country (Planning and Development) Act, 1979.]07
XIII of 1979.]

Section.

131. Protection of action taken in good faith.
132. Finality of orders.
133. Validation of acts and proceedings.
134. Power to delegate.
135. Control by the State Government.
136. Returns and information.
137. Overriding effect.
138. Power to make rules.
139. Power to make regulations.
140. Laying of rules before State Legislature.
141. Dissolution of Planning and Development Authorities.
142. Repeal and Savings.

FIRST SCHEDULE,

SECOND SCHEDULE.

©

West Bengal Act XIII of 1979'

THE WEST BENGAL TOWN AND COUNTRY (PLANNING AND DEVELOPMENT) ACT, 1979.

West Bengal, AMENDED Act XXXVIII of 1981. West Bengal Act XXIII of 1986, West Bengal Act
VII of 1993.
West Bengal Act XXVI of 1994. West Bengal Act XVIII of 2001.

1st June, 1979.

An Act to provide for the planned development of rural and urban areas in West Bengal and for matters connected therewith or incidental thereto.

WHEREAS it is expedient in the public interest to provide for the planned development of rural and urban areas in West Bengal and for matters connected therewith or incidental thereto;

It is hereby enacted in the Thirtieth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I

Preliminary.

(1) This Act may be called the West Bengal Town and Country (Planning and Development) Act, 1979. title,
and commencement-

(2) It extends to the whole of West Bengal, excluding any area to which the provisions of the Cantonments Act, 1924, apply. 2 of 1924, which the

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different areas.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "agriculture" includes horticulture, fanning, growing or crops, fruits, vegetables, flowers, grass, todder and trees, or any kind or cultivation of soil, breeding and keeping of live-stock including cattle, horses, donkeys, mules, pigs

For the purposes of this Act, the expression "agriculture" shall include horticulture, fanning, growing or crops, fruits, vegetables, flowers, grass, todder and trees, or any kind or cultivation of soil, breeding and keeping of live-stock including cattle, horses, donkeys, mules, pigs

This Act shall be deemed to have come into force on the 1st April, 1980. *1st June, 1979.* **le CV/jch(M) Ciltzette.**
Pan I. of the 27th March, 1980, page 531.

(Chapter (—Preliminary.—Section 2.)

- and poultry, and the use of land which is ancillary to the farming of land or any other agricultural purposes, but shall include the use of any land attached to a building for the purpose of a garden to be used along with such building;
and the expression "agricultural" shall be construed accordingly;
- (2) "amenities" includes roads and streets, open spaces, parks, recreational grounds, playgrounds, water and electric supply, street lighting, sewerage, drainage, public works and other utilities, services and conveniences;
- (3) "building operations" includes—
- (a) erection or re-erection of a building or any part of it,
 - (b) roofing or re-roofing of a building or any part of a building or an open space,
 - (c) any material alteration or enlargement of any building,
 - (d) any alteration of a building as is likely to affect an alteration of its drainage or sanitary arrangements or materially affect its structural stability, and
 - (e) the construction of a door opening on any street or land not belonging to the owner of a building;
- (4) "[Kolkata] Metropolitan Area" means the [Kolkata] Metropolitan Planning Area as referred to in section 16 of this Act;
- (5) "commerce" means the carrying on of any trade, business or profession, sale or exchange of goods of any type whatsoever, and includes the running of, with a view to making profit, hospitals, nursing homes, infirmaries, educational institutions as also hotels, restaurants, boarding houses not attached to any educational institution and *sarais*; and the expression "commercial" shall be construed accordingly;
- (6) "commercial use" means the use of any land or building or part thereof for purposes of commerce or for storage of goods or as an office, whether attached to any industry or otherwise;
- (7) "development" with its grammatical variations means the carrying out of building, engineering, mining or other operations, in, on, over, or under (and or the making of any material change in any building or land or in the use of any building or land and includes division of any kind;
- (8) "Development Authority" means a Development Authority constituted under this Act and includes the [Kolkata] Metropolitan Development Authority as referred to in section 17 of this Act;

The word within the square brackets was substituted for the word "Calcutta" by s. 5 of the West Bengal Capital City (Change of Name) Act, 2000 (Act No. 20 of 2000).
w.f.J. 1st January, 2001.

XII of 1979.]

The West Bengal Town and Country (Planning and Development) Act, 1979. 11J
(Chapter I.—Preliminary.—Section 2.)

- 69 of 19-18.
- (10) "industry" includes the carrying on of any industrial process defined in the Factories Act, 1948; and the expression "industrial" shall be construed accordingly;
- (11) "industrial use" includes [the use of] any land or building or part thereof for purposes of industry;
- (12) "land" shall have the same meaning as in the Land Acquisition Act, 1894 and shall include land covered by water;
- (12A) "Land Use and Development Control Plan" means any Land Use and Development Control Plan prepared under this Act;
- (13) "local authority" means a municipal corporation or committee or a board or any other authority legally constituted, or entrusted by the State Government with, the control or management of a municipal or local fund or which is permitted by the State Government to exercise the powers of a local authority and includes a *Zilhi Parishad*, a *Panchayat Samity* and a *Gram Panchayat* constituted under the West Bengal Panchayat Act, 1973.
- Wesiljcn.
AciXLlof
1973.
- Exploit (Hindi).—*The expression "local authority concerned" shall mean that authority if any land within its local limits falls in the area of a plan prepared or to be prepared under this Act;
- (14) "local newspaper" in relation to a Planning Area means any newspaper published or circulated within the Planning Area;
- (15) "notification" means a notification published in the *Official Gazette*;
- (16) "occupier" includes—
- a tenant,
 - an owner in occupation of or otherwise using his land.
 - a licensee in occupation of any land, and
 - any person who is liable to pay to the owner damages for the use and occupation of any land;
- (17) "operational construction" means any construction, whether temporary or permanent, which is necessary for the operation, maintenance or execution of any of the following services;—
- railways.
 - national highways,
 - national waterways,

Clause (9) was amended by s. 2(a) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1979. **XXVI** of 1979.

^Clause (12A) was inserted by s. 2(b), ibid

(Chapter 1.—Preliminary,—Section 2.)

- (iv) major ports,
- (v) airways and aerodromes.
- (vi) posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication,
- (vii) regional grid for electricity,
- (viii) any other service which the State Government may, in its opinion that the operation, maintenance, development or execution of such other service is essential to the life of the community, by notification, declare to be a service for the purposes of this clause.

Explanation.—For the removal of doubts, it is hereby declared that the construction of—

- (i) new residential buildings not connected with operations like galleys, lodges, hospitals, clubs, institutions, schools, railway colony roads, drains, etc., in the case of railways,
- and**
- (ii) a new building, new structure or new installation or any extension thereof, in the case of any other service.

shall not be deemed to be construction within the meaning of this clause;

- (18) "owner" includes a mortgagee in possession, a person who for the time being is receiving, or is entitled to receive, or has received, the rent or premium for any land whether on his own account or on account of, or on behalf of, or for the benefit of, any other person or as an agent, trustee, guardian or receiver for any other person or for any religious or charitable institution or who would so receive the rent or premium or be entitled to receive the rent or premium if the land were let to a tenant; and also includes the Head of a Department or an Under Secretary of the Central or a State Government, the General Manager of a Railway, the Secretary or other principal officer of a local authority, statutory authority or company in respect of properties under their respective control;
- (19) "Planning Area" means any area declared to be a Planning Area under this Act and includes [Kolkata] Metropolitan Area;
- (20) "Planning Authority" means any Planning Authority constituted under this Act;
- (21) "prescribed" means prescribed by rules made under this Act;
- (22) "public place" means any place or building which is open to the use or enjoyment of the public whether it is actually used or enjoyed by the public or not and whether the entry is regulated by any charge or not;

(Chapter II.—State Town and Country Planning Advisory Board.—Sections 3, 4.)

- (23) "regulation" means a regulation made under this Act;
- (24) "residence" means the use for human habitation of any land or building or part thereof including gardens, grounds, garages, slabs and out-houses, if any, appertaining to such building: and the expression "residential" shall be construed accordingly.

CHAPTER II State Town and Country

Planning Advisory Board

3. (1) The State Government, after the commencement of this Act, shall, for the purpose of carrying out the functions assigned to it under this Act, constitute by notification an Advisory Board to be called the West Bengal Town and Country Planning Advisory Board (hereinafter referred to as the Board).

(2) The Board shall consist of a Chairman, two Vice-Chairmen and not more than 45 other members.

4. (1) The Chief Minister of the State of West Bengal shall be the Chairman of the Board and he shall nominate two persons to be the Vice-Chairmen.

(2) The other members shall be—

- (i) the Mayor of the [Kolkata] Municipal Corporation;
- (ii) one Member of Parliament to be nominated by the Chairman of the Board from amongst those elected from the State of West Bengal;
- (iii) three Members of the West Bengal Legislative Assembly to be nominated by the Speaker of that Assembly;
- (iv) the Chairman of three municipalities to be nominated by the State Government;
- (v) three *Sabhdipatis* of three *Zilla Parishads* to be nominated by the State Government;
- (vi) the Chief Secretary to the Government of West Bengal;
- (vii) not more than seven officers of the rank of Secretary to the State Government Departments dealing with metropolitan development, local Government, planning, health, industry, housing, finance, agriculture, community development, transport, education, power, public works, irrigation, panchayat and land and land reforms;
- (viii) the Chairman of the West Bengal Housing Board;
- (ix) the Engineer-in-Chief, Public Works Department, Government of West Bengal;

The words within the square brackets were substituted for the words "Corporation of Calcutta" by s. 2 of the West Bengal Town and Country (Planning and Development)

(Amendment) Act I of 1986 (West Ben. Act XXIII of 1986).

-See footnote 1 on page 112. *ante*.

(Chapter 11.—Siruc Town and Counny i'awui't> Advisory Hoard.—Sect ions 5-/.)

- (x) thj Chiel'Conserviiiior oi'Fores is and Wild Life, Government of West Bengal;
- (xi) ihe Chief Executive Officer. '[Kolknia] Metropolitan Development Authority;
- (,ii) the Chairmant>! Hie West. Bangui Slate Electricity Board;
- (siii) [lie Chairman of 1112 West Bengal Industrial Development Corporation;
- (xiv) representatives of ilie Central Government dealing wilh railways, sice I mid mines, civil aviation and transport and communications;
- (xv) nun-officials lo be nominated by ihe Stale Government who. in itsopiniun.liavu spccial know led gei>r practical experience in manors relating lo (own andcoutury planning, engineerings transport. industry. environmental engineering, geography, geology, sociology, municipal engineering, agriculture nnd economics;
- (,wi) the Secietary, Town and Country Planning Department, Government of West Bengal, who shall be designated as Ihe Member-Secretary oi the Board.

5. The Ronrd shall, in ae cord a nee wiith die provisions or this Act and the rules made thereunder, advise Ihe Stale Government ill matters relating to planning, development, co-cirdinaliun :ind use of rural and urban land and such oilier connected lunctions as Uie Slate Government may, from lime in lime, assign ii> ii.

punciiuns.
 nf ilic
 Bunrd

6. (1) The term of office and allowances of ihe nominaied members of ihe Hoard shall be such as may be prescribed:

Provided that the State Government may, if ii thinks fit, terminate die appointment of any nominaied member before the expiry of his term of office.

(2) \ nominated member of Hie Board may resign his membership by giving notice in writing lo tlic Slate Government. He shall cease to be a member on acceptance of such resigalion,

Term or
 officc
 i; audi lions of
 serva's of
 the members
 or llc tourd.

(3) Any vacancy by resignation, death or OLLierwi.se of y nominaied member shall be (Hied by fresli nomination by the State Government.

7. (1) The Boards hill 1 meet ai 1 ua.si lour times in a year atsueli time nnd placc as it thinks fit and the meeting.shall be held according lo su;h procedure as may be prescribed.

(2) The Chairman or in his absence it Vice-Clutirman shall preside al a meeting or the Hoard. In case tioiti (he Vice-Chairmen are present the members present shall eleel one of the Vice-Chairmen to preside at flic meeting. In the absence of Chairman and botli lhe Vice-Chairmen die members present shall elcci any member present for presiding at lhe mceli ng.

Meeting uf
 ilic Hoard.

'W fnol-nmc I on pa pi" 11(1. *milt'*.

*Till' MV.w Bengal Town and Country (Planning and Development)
Act. 1979.*

XIII or 1979.] 115

*(Chapter II.—State Town and Cotmiy Planning Advisory Board.—Sea ion 8.—Chapter III.—Declaration of
Planning Areas and Constitution of Planning Authorities and Development Authorities.—Sectio11 9.)*

8. Tliiny;j«"«w.ofthe members of the Board shall form a quorum Tor Quorum, a meeting:
Provided ihaL no quorum shall be necessai'y for any adjourned meeting.

CHAFFER III

Declaration of Planning Areas and Constitution or Planning Authorities and Development Authorities

9. (i) The Stale Government may, by notification, declare any area in West Bengal lo which the provisions ol' this Act have conic into force under sub-section (3) of section 1 to be a Planning Area for the purposes of this Act.

(2) Every such notification shall define the limits of the area lo which it relaLcs.

D^ljrjiiOE
i of Planning
Arva.s, llicir
nmnlg«ini-
nion, sub-
division and
inclusion of
any iirtM in
Planning
Area.

(Chapter III.—Declaration of Planning Areas and Constitution of Planning
Authorities and Development Authorities.—Sections 10, H.)

Power to
utilise
Planning
Area from
the
operations
of this Act.

10. (1) The State Government may, by notification, withdraw from the application of this Act any Planning Area or part thereof.

(2) When a notification is issued under sub-section (1) in respect of any Planning Area or part thereof:—

- (i) this Act and all notifications, rules, regulations, orders, directions and powers issued, made or conferred under this Act shall cease to apply to the said area or part thereof;
- (ii) the State Government shall, after consulting the local authority or authorities concerned, frame a scheme determining: what portion of the fund of the Planning Authority or the Development Authority concerned shall vest in the State Government, and the local authority or authorities concerned and in what manner the properties and liabilities of the Planning Authority or the Development Authority concerned shall be apportioned between the State Government and the local authorities and on the scheme being published by notification, the fund, properties and liabilities of the Authority concerned shall vest and be apportioned accordingly.

Constitution
of
Planning
Authority
and
Develop-
ment
Authority.

11. (1) As soon as may be, after declaration of an area as a Planning Area, the State Government may, by notification, constitute for the purposes of this Act a Planning Authority for the area or a Development Authority in respect of the Planning Area or a part of it.

(2) A Planning Authority or a Development Authority, if it is not a local authority or a Government department or agency, shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to enter into contracts and shall by its corporate name sue and be sued.

(Chapter 111.—Declaration of Planning Areas and Constitution of Planning Authorities and Development Authorities.— Sections 12, 13.)

(5) The provisions of sub-section (3) or this section and sections 12, 14 and 15 shall not apply to a Planning Authority or a Development Authority appointed under sub-section (4) and the provisions of this Act by which such authority is constituted shall continue to apply in respect of the area within the jurisdiction of that authority.

12. (1) The term of office and terms and conditions of service of the Chairman and other members of a Planning Authority or a Development Authority not being a local or statutory authority, shall be such as may be prescribed.

(2) Any vacancy occurring in the office of the Chairman or any other member of an Authority referred to in sub-section (3) or section 11 shall be filled by fresh appointment by the State Government.

Term of office and terms and conditions of service of the Chairman and members of Planning Authority and Development Authority.

13. (1) Subject to the provisions of this Act, and the rules made [hereunder and any direction which the State Government may give from time to time—

(i) a Planning Authority shall have the following powers and functions:—

- (a) to prepare a present Land Use Map;
- (b) to prepare and enforce [a Land Use and Development Control Plan;]

2* aid * \$ *

- (d) to prescribe use of land within its area;
- (e) to perform any other function which is supplemental, incidental or consequential to any or the functions aforesaid or which may be prescribed;

(ii) a Development Authority shall have the following powers and functions:—

- (a) to prepare a present Land Use Map;
- (b) to prepare and enforce [a Land Use and Development Control Plan;]

(c) * » * -

Powers and functions of Planning Authority and Development Authority.

The words within the square brackets were substituted for the words "an Outline Development Plan;" by s. 3(a)(ii) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

Sub-clause (e) inserted by s. 3(a)(ii). *ibid.*
The words within the square brackets were substituted for the words "an Outline Development Plan;" by s. 1(b)(ii). *ibid.*
Sub-clause (e) was omitted by s. 3(h)(ii). *ibid.*

- (d) to prescribe use of land within its area;
- (e) to prepare and execute development schemes;
- (f) to coordinate the development of all departments and agencies of the State Government or local authorities operating within the Planning Area;
- (a) to carry out or cause to be carried out such works as are contemplated in [In; Land Use and Development Control Plans;]
- (i) to acquire, hold and manage such property, both movable and immovable, as the Development Authority may deem necessary for the purposes of any of its functions and to lease, sell or otherwise transfer any property held by it;
- (i) to purchase by agreement or to take on lease or under any form of tenancy, any land and to erect thereon such buildings and to carry out such operations as may be necessary for the purpose of carrying on its undertakings; (j) to enter into or perform such contracts as may be necessary for the performance of its duties and for exercise of its powers under this Act;
- (k) to provide facilities for the consignment, storage and delivery of goods;
- (l) to perform any other function which is supplemental, incidental or consequential to any of the functions aforesaid or which may be prescribed.

(2) A Planning Authority or a Development Authority for the performance of its functions, may appoint such number of officers and other employees on such terms and conditions as may be approved by the State Government.

14. A Planning Authority or a Development Authority shall meet at such times and places and observe such rules of procedure in regard to the transaction of its business as may be determined by regulations.

15. (1) Every Development Authority shall, subject to the provisions of section 22 of this Act, as soon as may be, constitute an Advisory Council, for the purpose of advising it on the formulation and coordination of plans for the development of the area within its jurisdiction.

(2) The Advisory Council shall consist of not more than fifteen but not less than eight members as may be appointed by the State Government in its behalf.

"In the first schedule to the West Highland Town and Country (Planning and Development) Act, 1979, in clause 15, in sub-clause (1), for the words 'subject to the provisions of section 22 of this Act, as soon as may be, constitute an Advisory Council,' the following shall be substituted, namely:— 'subject to the provisions of section 22 of this Act, as soon as may be, constitute an Advisory Council, for the purpose of advising it on the formulation and coordination of plans for the development of the area within its jurisdiction.'"

CHAPTER IV [Kolkata] Metropolitan Development

Authority

West Bengal
Act XIV of
1956.

16. (1) Notwithstanding the repeal of the [Kolkata] Metropolitan Planning Area (Use and Development of Land) Control Act, 1965, by section 142 of this Act, the controlled area declared under that Act with such modifications as mentioned in the First Schedule to this Act shall be known as the [Kolkata] Metropolitan Planning Area for the purposes of this Act.

(2) The State Government may, if it thinks fit, by notification, enlarge, curtail or modify the [Kolkata] Metropolitan Planning Area or any part thereof.

[Kolkata] Metropolitan
Authority.

17. (1) Notwithstanding the repeal of the [Kolkata] Metropolitan Development Authority Act, 1972, by section 142 of this Act, the [Kolkata] Metropolitan Development Authority constituted under that Act shall be known as the [Kolkata] Metropolitan Development Authority under this Act and it shall be deemed to be a Development Authority for the purposes of this Act.

West Bengal
Act XI of
1972.

(2) All the provisions of this Act relating to a Development Authority shall, if not inconsistent with the provisions in this Chapter, apply to the [Kolkata] Metropolitan Development Authority.

[Kolkata] Metropolitan
Development
Authority—
Powers and
Functions
of the
[Kolkata] Metropolitan
Development
Authority.

18. Subject to the provisions of this Act and the rules made thereunder and any direction which the State Government may give, from time to time, the powers and functions of the [Kolkata] Metropolitan Development Authority shall be as provided in section 13 of this Act.

19. (1) The [Kolkata] Metropolitan Development Authority shall consist of the following members:—

- (a) the Chief Minister of the State of West Bengal or any person nominated by him shall be the Chairman, and a Minister of the State of West Bengal to be nominated by the Chief Minister shall be the Vice-Chairman:

Provided that when there is no Council of Ministers functioning in the State of West Bengal, the State Government shall nominate such persons, as it may think fit, to be the two members and the Chairman and Vice-Chairman respectively of the [Kolkata] Metropolitan Development Authority:

See footnote I on page I ID. 11111

Composition
of the
[Kolkata] Metropolitan
Development
Authority.

(Chapter IV.—¹[Kolkata] Metropolitan Development Authority.—
Section 19.)

- (b) the Chief Executive Officer or the [Kolkata] Metropolitan Development Authority. *ex-officio*;
- (c) not more than three officers of the rank of Secretary to the State Government to be nominated by the State Government; and
- (d) not more than five persons to be nominated by the State Government of whom—
- (i) two shall be Councillors or Aldermen of the [Kolkata] Municipal Corporation. ■
- (ii) one shall be a Councillor or Alderman of the Howrah Municipal Corporation, and (iii) two shall be Commissioners or any municipality within the [Kolkata] Metropolitan Area;

Provided that when an order of supersession of the [Kolkata] Municipal Corporation or the Howrah Municipal Corporation or the municipality, as the case may be, has been made and is in force, it shall be competent for the State Government to nominate, in place of the Councillors or Aldermen or Commissioners, as the case may be, such persons as have experience or knowledge of administration of local self-government to be members of the [Kolkata] Metropolitan Development Authority:

Provided further that on the revocation of the order of supersession as aforesaid, the members nominated under the first proviso shall, notwithstanding the term or office or such members has not expired, cease to hold office and the vacancies shall be filled up in accordance with the provisions of clause (d).

(2) The Vice-Chairman shall discharge such functions and exercise such powers as may be delegated to him by the Chairman and shall, during the absence of the Chairman, perform the functions and exercise the powers of the Chairman.

(3) The members referred to in clause (d) of sub-section (1) shall hold office for a term of three years from the date of their nomination by the State Government and shall receive such allowance¹; for attending the meetings of the [Kolkata] Metropolitan Development Authority or any committee thereof, as may be prescribed:

Provided that every such member, on ceasing to be a Councillor or Alderman of the [Kolkata] Municipal Corporation or the Howrah Municipal

¹For the purpose of clause (3), *time*,

which was substituted for the original by s. 3(a) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1981 (West Ben. Act XXII of 1981) prior to this Amendment Act, is inserted by s. 2 of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1981 (West Ben. Act XXXV of 1981).

■ The proviso is subsumed for the original by s. 3(b) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1986 (West Ben. Act XXVI of 1986).

The 1 Vest /Jem;at Town and Country (I'hmming and Development)

Acl, 1979. '

XI11 of 1979.]

12]

(Chapter IV,—/KolkataJ Metropolitan Development Authority.— Sections 20-22.)

Corporation or Commissioner of a mimic ipaliyy wiihin the '[Kolkala] Metropolitan Area, as lite case m:i:iy be, shall. notwithstanding that the term ofofficeofsuch mcniberhas not expired, cease [n hold of'ficeand lhe vacancy shall be filled up in accordance wiith the provisions ol" clause (d) of subsection (1).

(4) No act or proceeding of the '[Kolkala] Meiropolit.in Development Authority shall be deemed to be invalid merely by reason of any vacancy in, or defect, initial or subsequent, in the constitution of that Authority.

20. (1) The ¹ '[KolkntaJ Metropolitan Development Authority shall meet at such places and ai such times, and shall observe such rules of procedure in regard toihc transaction of business at iis meeting (including the quorum at its meetings) as may be prescribed.

(2) TheChairnianofthc'[Kolkata] Metropolitan Development Authority or, if for any reason he is unable to attend any meeting, the Vice-Chairman or, if for any reason both the Chairman and the Vice-Chairman arc unable to attend any meeting, any oilier member dec led by llie members present shall preside at the meeting.

Medina of [lie
'K(->lk;it:ij
Metropolia
n Develop-
mem
Aulhurity.

21. (1) The State Government shall appoint a Chief Executive Officer whoshall bca wholc-iinioHlcerofthc '[Kolkala] Metropolitan Development AulhoriLy.

(2) The Chief Executive Officer shall discharge such functions and excreisesuch powers as may be assigned to liini by liie '[Kolkala] Metropolitan Development Authority.

(3) The '[Kolkala] Metropolitan Development Authority may appoint a whole-time Secrelary and such other staff as it may think fit for lhc exercise of its powers and discharge of iis functions under this Acl,

Pimer lit
appoint Offkm
,md
Sterclnry .
unci olher sniff.

(4) The expenditure on account of the salary and allowance of the Chief Exec u Live Officer, Secrelary and tfie other staff shall be defrayed out of Lhe fund of Lhe '[KolkataJ Metropolitan Development Authority.

22. (1) The '[Kolkala] Metropolitan Development Authority shall, ns snon as may be, after the commencement of the Acl, constitute an Advisory Council, for the purpose of advising it on lhc formulation and co-ordination of plans for the development of ihe '[Kolkala] Meiropolitan Area,

(2) The Advisory Council shall consist of the following members:—

(a) the Chairman of the ¹ '[Kolknta] Metropolitan Development Authority, *e.x-officio*. who shall be the Prcsidcni thereof;

(b) theVice-Chairmunoflhc '[Kolknta] Meiropolitan Development Authority, *e.x-officio*:

'Srr Ion!.note I on n;:i>L' 11(1 tm'r

Advisory
PiYr.iLi
!

(Chapter IV.—¹f Kolkala] Metropolitan Development Authority.—
Section 22.)

- (c) a representative of the [Kolkala] Improvement Trust;
- (d) a representative of the Howrah Improvement Trust;
- (e) one person holding office, ("or the time being, as the [Municipal Commissioner of the (Kolkala) Municipal Corporation;]
- (f) two persons with knowledge of town planning and architecture, to be nominated by the State Government;
- (g) one representative of the Department of Health of the State Government;
- (h) three representatives of the municipal corporations and other municipal authorities, other than the [(Kolkala) Municipal Corporation] within the (Kolkala] Metropolitan Area, to be nominated by the State Government;
- (i) a representative of the [Kolkala] State Transport Corporation, to be nominated by the State Government;
- (j) a representative of the [Kolkala] Tramways Company Limited, to be nominated by the State Government;
- (k) one representative of the [Kolkala] Electric Supply Corporation Limited, to be nominated by the State Government;
- (l) four Members of the West Bengal Legislative Assembly, to be nominated by the Speaker of that Assembly;
- (m) two representatives of the Indian Railways of whom one shall be from the Metropolitan Transport Project (Railways), [Kolkala]; and
- (n) six other persons to be nominated by the State Government.

(3) If for any reason the Chairman of the [Kolkata] Metropolitan Development Authority is unable to attend any meeting of the Advisory Council, such meeting shall be presided over by the Vice-Chairman, or both [the Chairman and the Vice-Chairman are absent, the members present shall elect one amongst themselves to preside over the meeting.

(4) The Advisory Council shall meet as and when necessary and shall regulate its own procedure.

(5) The members of the Advisory Council shall hold office for such terms, and shall receive such allowances for attending the meetings of the Advisory Council, as may be prescribed.

¹See clause (b) on page 110, *unic*.

Words within the square bracket: were substituted for the word "Chairman of the Corporation or Council;" by s. 4(n) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1979 (XXIII of 1979).

* Words within the square bracket: were substituted for the words "Chairman of the Corporation or Council;" by s. 4(n) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1979 (XXIII of 1979).

(Chapter IV.—[Kolkata] Metropolitan Development Authority.— Sections 23-25.)

23. (1) The [Kolkata] Metropolitan Development Authority may constitute as many committees, consisting wholly of members of such Authority or wholly of other persons or partly of members of such Authority and partly of other persons and for such purpose or purposes, as it may think fit. Constitution of committees.

(2) A committee constituted under this section shall meet at such place and at such time, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be determined by regulations made in this behalf.

(3) The members of a committee, other than the members of the [Kolkata] Metropolitan Development Authority, shall be paid such fees and allowances for attending its meetings and for attending to any other work of the [Kolkata] Metropolitan Development Authority as may be determined by regulations made in this behalf.

24. (i) Notwithstanding anything contained in any other law for the time being in force, the [Kolkata] Metropolitan Development Authority may give such directions with regard to the implementation of any development project, as it may think fit, to an authority to which payment of any money from its fund has been made under this Act.

(2) The [Kolkata] Metropolitan Development Authority shall so exercise the powers or supervision referred to under this Act as may be necessary to ensure that each development project is executed in the interests of the overall development of the [Kolkata] Metropolitan Area and in accordance with the approved development plan, Power or the [Kolkata] Metropolitan Development Authority to give

25. (1) Where the [Kolkata] Metropolitan Development Authority is satisfied that any direction given by it under sub-section (1) of section 24 with regard to any development project has not been carried out by the authority referred to therein or if any such authority is unable to fully implement any scheme undertaken by it for the development of any part of the [Kolkata] Metropolitan Area, the [Kolkata] Metropolitan Development Authority may itself undertake the works and incur any expenditure for the execution of such development projects or implementation of such schemes, as the case may be. Power of the [Kolkata] Metropolitan Development Authority to execute any plan.

(2) The [Kolkata] Metropolitan Development Authority may also undertake any works in the [Kolkata] Metropolitan Area as may be directed by the State Government and may incur such expenditure as may be necessary for the execution of such work,

.Siv foot-note I on page 110,

(Chapter IV.—[Kolkata] Metropolitan Development Authorities,— Sections 26, 27.)

(3) Where any work is undertaken by the [Kolkata] Metropolitan Development Authority under sub-section (1), it shall be deemed to be, for the purposes of any law for the time being in force, that authority referred to in sub-section (1) of section 24.

(4) The [Kolkata] Metropolitan Development Authority may, for the purpose or carrying out the powers conferred by sub-sections (1) and (2), undertake survey of any area within the [Kolkata] Metropolitan Area and for that purpose it shall be lawful for any officer of the [Kolkata] Metropolitan Development Authority—

- (a) to enter in or upon any land and to take level of such land;
- (b) to dig or bore into the sub-soil;
- (c) to mark levels and boundaries by placing marks and cutting trenches;
- (d) where otherwise the survey cannot be completed and levels taken and boundaries marked, to cut down and clear away any part of any standing crop, fence or jungle;

Provided that before entering upon any land the [Kolkata] Metropolitan Development Authority shall give notice of its intention to do so in such manner as may be specified in the regulations made under this Act.

26. The [Kolkata] Metropolitan Development Authority may, by order in writing and subject to such conditions as it may think fit to impose, delegate any of its powers, duties and functions under this or any other Act or any rule or regulation made thereunder to the Chairman, Vice-Chairman, Chief Executive Officer, Secretary or any other officer appointed under this Act.

Amendment of the [Kolkata] Improvement Act, 1911, the Howrah Improvement Act, 1956, and the [Kolkata] Metropolitan Water and Sewerage Authority Act, 1906.

27. The [Kolkata] Improvement Act, 1911, the Howrah Improvement Act, 1956 and the [Kolkata] Metropolitan Water and Sewerage Authority Act, 1906, shall stand amended to the extent and in the manner specified in the Second Schedule to this Act.

Hen. Act V of 1911, West Ben. Act XIV of 1956, West Ben. Act XIII of 1966.

XIII of 1979.]

(Chapter V.—Preparation of present Land Use Map,—
Sections 28, 29.)

CHAPTER V Preparation of present Land Use Map

28. Every Planning Authority or Development Authority shall, within one year after its constitution or within such time as the State Government may, from time to time, extend, prepare a present Land Use Map (hereinafter called the Map) and a Land Register (hereinafter called the Register) in such form as the concerned Authority may think fit indicating the present use of lands in the Planning Area:

Preparation
[^FUSO may,
Map and
^TM^ for form

Provided that the concerned Authority may prepare the Map and the Register in respect of any portion of the Planning Area but the Map or Maps with Register in respect of the entire Planning Area shall be completed within the said period of one year or within such time as the State Government may from time to time extend.

Explanation.—The predominant use to which the land is put on the date of preparation of the Map shall be considered to be the present land use by the Planning Authority or the Development Authority.

29. (1) After the preparation of the Map and the Register, the Planning Authority or the Development Authority shall publish a public notice of the preparation of the Map and the Register and of the place or places where the copies of the same may be inspected, inviting objections in writing from any person in respect to the Map and the Register within thirty days of the publication of such notice.

(2) After the expiry of the period of thirty days mentioned in sub-section (1), an officer designated by the Planning Authority or the Development Authority shall, after allowing a reasonable opportunity of hearing to objects, if any, submit a report to the concerned authority.

(3) The concerned authority shall consider the report submitted under sub-section (2) and may make such modifications in the Map or the Register or both as it considers proper and adopt the Map and the Register with such modifications, if any.

(4) Where a local authority or a statutory authority has been declared as the Planning Authority or the Development Authority for any area and it has prepared a similar Map or Register in respect of an area before the application of this Act to that area, the Map or the Register already prepared shall be deemed to be a Map or a Register, as the case may be, under section 28.

(5) As soon as may be, after the adoption of the Map and the Register under sub-section (3), the Planning Authority or the Development Authority, as the case may be, shall publish a public notice of such adoption of the Map and the Register and the place or places where copies of the same may be inspected and shall submit copies of the Map and the Register to the State Government,

(Chapter V.—Preparation of present Land Use Map.—
Section 30.—Chapter VI.—Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval.—Sec dot t 31.)

(6) A copy of such notice shall also be published in the Official Gazette. Such publication in the Official Gazette in respect of the Map and the Register shall be conclusive evidence that the Map and the Register have been duly prepared and adopted.

Government of West Bengal
Department of Urban Planning and Development
Authority to prepare the Map and the Register.

31. (1) If no Map or Register is prepared by the Planning Authority or the Development Authority within the period referred to in section 28 or if at any time the State Government is satisfied that the Planning Authority or the Development Authority is not taking necessary steps to prepare the Map and the Register, the State Government may direct any of its officers to prepare or cause to be prepared the Map and the Register.

(2) After preparation of the Map and the Register, the said officer shall submit the same to the State Government and the State Government shall follow the procedure laid down in section 29 in relation to the authority concerned.

(3) Any expenses incurred under this section in connection with the preparation and the publication of the Map and the Register with respect to a Planning Area shall be paid by the concerned authority.

CHAPTER VI

Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval

31. (1) A Planning Authority or Development Authority shall, within two years of its declaration of a Planning Area, prepare a plan (hereinafter called "Land Use and Development Control Plan") for the Planning Area and forward a copy thereof to the State Government:

Provided that the concerned authority may prepare the plan in respect of any portion of the Planning Area, but the plan in respect of the whole Planning Area shall be completed within a period of three years or within such time as the State Government may from time to time extend.

The word "Development Plan" by section 2(i) of the West Bengal Town and Country (Planning and Development) Act, 1979 (Act XXVI of 1979).

The word "Development Plan" by section 4(b)(iii) of the West Bengal Town and Country (Planning and Development) Act, 1979.

(Chapter 17.—Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval.—See also section 18.)

(2) The 'Land Use and Development Control Plan' in any area shall be a written statement,—

- (a) formulating the policy and the general proposals including maps of the Planning Authority or the Development Authority in respect of the development and general use of land in that area including measures for the improvement of the physical environment;
- (b) stating relationship between these proposals and general proposals for the development and general use of land in neighbouring areas which may be expected to affect the area; and
- (c) containing such other matters as may be prescribed or directed by the State Government.

(3) A 'Land Use and Development Control Plan' in any area shall contain or be accompanied by such maps, diagrams, illustrations and descriptive matters as the Planning Authority or the Development Authority thinks appropriate for the purpose of explaining or illustrating the proposals in the plan and such diagrams, illustrations and descriptive matters shall be treated as parts of the plan.

(4) The 'Land Use and Development Control Plan' may also—

- (a) (i) indicate broadly the manner in which the Planning Authority or the Development Authority proposes that land in such area should be used;
- (ii) indicate areas or buildings requiring preservation and conservation for historical, architectural, environmental and ecological and religious purposes;
- (b) allocate areas or zones of land for use—
 - (i) for residential, commercial, industrial, agricultural, natural scenic beauty, forest, wild life, natural resources, fishery and landscaping;
 - (ii) for public and semi-public open spaces, parks and playgrounds;
 - (iii) for such other purposes as the Planning Authority or the Development Authority may think fit;
- (c) indicate, define or provide for—
 - (i) the existing and proposed national highways, arterial roads, ring roads and major streets;
 - (ii) the existing and proposed lines of communications, including telegraph lines, railways, air-ports, canals and linkage between towns and villages;

.....

*The West Bengal Town and Country (Planning and Development)
Act, 1979.*

128

¹The word; within the square brackets were substituted for the words "Development Plan" by s. 4(d)(i) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1994. (West Ben. Act XXVI of 1994).

The words within the square brackets were substituted for the words

"Development Plan" by s. 4(d)(i) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1994. (West Ben. Act XXVI of 1994).

The words within the square brackets were substituted for the words "Development Plan" by s. 4(d)(i) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1994. (West Ben. Act XXVI of 1994).

The words within the square brackets were substituted for the words "Development Plan" by s. 4(d)(i) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1994. (West Ben. Act XXVI of 1994).

The words within the square brackets were substituted for the words "Development Plan" by s. 4(d)(i) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1994. (West Ben. Act XXVI of 1994).

The words within the square brackets were substituted for the words "Development Plan" by s. 4(d)(i) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1994. (West Ben. Act XXVI of 1994).

The words within the square brackets were substituted for the words "Development Plan" by s. 4(d)(i) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1994. (West Ben. Act XXVI of 1994).

The words within the square brackets were substituted for the words "Development Plan" by s. 4(d)(i) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1994. (West Ben. Act XXVI of 1994).

The words within the square brackets were substituted for the words "Development Plan" by s. 4(d)(i) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1994. (West Ben. Act XXVI of 1994).

(Chapter VI.—Preparation of Land Use and Development Control Placts and Procedure for their Statutory Approval. - sections 32, 33.)

- (iii) the existing and proposed amenities, services and utilities, systems for which supply including improvement or Lake, rivers, fountains and the like, sewerage, drainage and waste disposal, generation and distribution of electric power and distribution of gas; etc;
- (d) include regulations (hereinafter called zoning and sub-division regulations) to control within each zone the location, height, number of storeys and size of buildings and other structures, the size of yards, courts and other open spaces and the use of buildings, structures and land and sub-division of land and the street alignments, set back distances, constructional activities destroying natural scenic beauty and provide for amenities in hill areas and coastal areas and such other issues as may be considered appropriate by the Authority;
- (e) local cluster of villages and huts and designate land for huts, markets, cottage industry, livestock, pasture festivals, fairs, mains and like community facilities and conservation of trees and forests;
- (f) indicate areas or zones for catchment, soil conservation, plantation, unsafe for any construction, subsidence for any reason including operation of mines, earthquake prone and control or natural disaster.

*Explanation.—*The expression "mine" has the same meaning as defined in the Mines Act, 1952; *The West Bengal Town and Country Planning and Development Act, 1979.*

(g) designate land as subject to acquisition for any public purposes.

32. [Preparation of Detailed Development Plan.—Omitted by s. 4(c) of the West Bengal Town and Country Planning and Development (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).]

35 of 1952.

33. If any local or sui iury authority has been declared a Planning or a Development Authority for a Planning Area and the said authority has prepared a [Land Use and Development Control Plan] similar to that contemplated in this Act, for the Planning Area before this Act has been brought in force in that area, the [Land Use and Development Control Plan] already prepared may be deemed to be a [Land Use and Development Control Plan] under section 31 or section 32 of this Act, according to the nature of the plan, provided it includes the features of a plan contemplated in this Act.

"Land Use
Development
Control Plan)
prepared prior to
the application of
this Act to be
deemed to be
Land Use and
Development
Control Plan I
under
this Act.

XIII of 1979.]

(Chapter VI.—Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval,—Sections 34, 35.)

34. (J) Where by virtue of the provisions of this Act, a [Land Use and Development Control Plan] is to be prepared,—

(a) if within the period prescribed or within such period which the State Government may extend, no [Land Use and Development Control Plan] has been prepared; or

(b) if at any time the State Government is satisfied that the Planning Authority or the Development Authority is not taking steps necessary to prepare such a [Land Use and Development Control Plan] within that period,

the State Government may direct any officer of the State Government to prepare the [Land Use and Development Control Plan],

(2) After the preparation of the [Land Use and Development Control Plan], the said officer shall submit the [Land Use and Development Control Plan] to the State Government and shall follow the procedure and exercise the powers of the Planning Authority or the Development Authority, as the case may be.

(II) Any expenses incurred under this section in connection with the preparation and publication of the [Land Use and Development Control Plan] for the Planning Area of any Planning Authority or Development Authority shall be paid by the concerned authority.

35. As soon as may be after the [Land Use and Development Control Plan] has been submitted to the State Government, but not later than the time prescribed, the State Government shall direct the Planning Authority or the Development Authority to make such modifications in the [Land Use and

Development Control Plan] as the State Government may think fit and [hereupon] the concerned authority shall make the modifications.

Power of State Government in (a) direct preparation of Land Use and Development Control Plan, (b)

Approval of Government in (a) direct preparation of Land Use and Development Control Plan, (b)

(Chapter Vf.—Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval.—Section 16 J)

Public notice (1) After the modifications, if any, the Planning Authority or the Development Authority shall publish a public notice in the *Official Gazette* of the [Land Use and Development Control Plan] and in one or more local newspapers, of the preparation of the [Land Use and Development Control Plan] and the place or places where copies of the draft Control Plan may be inspected, inviting objections in writing from any person in writing in respect to the [Land Use and Development Control Plan] within a

period of sixty days [from the date of publication of the public notice in the *Official Gazette* or from the date of publication of the public notice in the newspaper, whichever is later).

(2) The notice of preparation of the [Land Use and Development Control Plan] as provided under the preceding sub-section shall, notwithstanding anything contained in the Land Acquisition Act, 1894, be deemed to be a declaration duly made under section 4 of the said Act.

(3) After the expiry of the period mentioned in sub-section (1), the concerned authority shall appoint a Committee consisting of its members, to consider the objections filed under sub-section (1) and submit report within such time as the Planning Authority or the Development Authority may fix in this behalf.

(4) The Committee so appointed shall have power to invite any other person, and such a person shall have a right to take part in the discussions of the Committee relevant to the purpose but shall not have a right to vote at a meeting and shall not be a member for any other purpose.

(5) The Committee so appointed shall afford a reasonable opportunity of being heard, in any person, including representatives of Government Departments, or local authorities who has or have filed any objection, and who has or have made a request for being heard.

(6) As soon as may be, after the receipt of the report from the Committee, [but not later than such time as may be prescribed,] the Planning Authority or the Development Authority shall consider the report and may make such modifications in the [Land Use and Development Control Plan] as it considers proper, and shall submit the [Land Use and Development Control Plan] with or without modifications together with the report to the State Government.

(Chapter VI.—Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval—Sections 37, 38.)

The West Bengal Town and Country (Planning and Development) Act, 1979.
XIII of 1979.1
132

As soon as may be, after the receipt of the [Land Use and Development Control Plan], together with the report of the Committee, but not later than such time as may be prescribed, the State Government may either approve the [Land Use and Development Control Plan] with or without modifications or return the [Land Use and Development Control Plan] to the concerned authority to modify the plan or to prepare a fresh plan in accordance with such directions as the State Government may issue in its behalf,

Approval of the State Government.

(2) After modification in the plan or preparation of a fresh plan in accordance with the directions of the State Government under sub-section (1), the same shall be submitted to the State Government for approval and the State Government shall intimate its decision [within such time of the receipt of the plan as may be prescribed.]

38. (1) Immediately after the [Land Use and Development Control Plan] has been approved by the State Government, the Planning Authority or the Development Authority shall publish a public notice in the *Official Gazette* and in a local newspaper of the approval of the [Land Use and Development Control Plan] and the place or places where copies of the [Land Use and Development Control Plan] may be inspected.

Cumins; into operation of the [Land Use and Development Control Plan.]

(2) The publication of the notice in the *Official Gazette* of the approval of the [Land Use and Development Control Plan] shall, notwithstanding anything contained in the Land Acquisition Act, 1894, be deemed to be a declaration duly made under section 6 of the said Act.

1 of 1894.

(3) The [Land Use and Development Control Plan] shall come into operation from the date of publication of the aforesaid notice in the *Official Gazette*.

(5) If the [Land Use and Development Control Plan] contains zoning and subdivision regulations as referred to in clause (d) of sub-section (4) of section 31, it shall be the duty of the Corporation or the Commissioners of the municipality or any other local authority, within whose jurisdiction such area or zone is situated, to enforce such regulatory measures in supersession of the rules and regulations, if any, applicable to such area or zone.

¹The words within the square brackets were substituted for the words "Development Plan" by s. 4(i)(i)(A) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Bengal Act XXVI of 1994).

²The words within the square brackets were substituted for the words "but not later than sixty days" by s. 4(i)(i)(B), *ibid*.

³The words within the square brackets were substituted for the words "within sixty days of the receipt of the plan." by s. 4(h)(ii), *ibid*.

⁴The words within the square brackets were substituted for the words "Development Plan." by s. 4(i)(i), *ibid*.

⁵The words within the square brackets were substituted for the words "Development Plan" by s. 4(i)(ii), *ibid*.

⁶Sub-section (J) was omitted by s. 4(i)(iii), *ibid*.

The Uttar Pradesh Town and Country (Planning and Development) Act, 1979.

[West Ben, Act

(Chapter VI—Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval.—Sections 39, 40J Bengal Town and Country (Planning and Development) Act, 1979.

132

The West XUI of 1979.]

39. (1) Within one month of the coming into operation of the [Land Use and Development Control Plan], any person aggrieved by it may make an application to the High Court questioning the validity of the [Land Use and Development Control Plan] or any provisions contained therein on the following grounds:—

[The High Court questioning the validity of the Land use and Development Control Plan.]

- (a) that it is not within the powers conferred by this Act, or (b) that any requirement of this Act, or any rules made thereunder have not been complied with in relation to the making of the [Land Use and Development Control Plan].

(2) The High Court, after giving an opportunity to the authority concerned and the State Government (as heard,—

- (a) may stay, until the final determination of the proceedings, the operation of any provisions contained therein so far as it affects any property of the applicant; and (b) if satisfied that the [Land Use and Development Control Plan] or any provision contained therein is not within the powers conferred by this Act, or that the interest of the applicant has been substantially prejudiced by a failure to comply with any requirement of this Act or rules, may quash the plan or any provision contained therein generally or in so far as it affects any property of the applicant.

(3) Subject to the above provisions of this section, the [Land Use and Development Control Plan] shall not, either before or after it has been approved, be questioned in any manner, in any legal proceedings whatsoever.

40. (1) At any time after the date on which the [Land Use and Development Control Plan] for an area comes into operation, and at least once in every 10 years after that date, the concerned authority shall, after carrying out such fresh surveys as may be considered necessary, prepare and submit to the State Government a [Land Use and Development Control Plan] for any alterations or additions considered necessary,

(2) The provisions of sections 36, 37 and 38 shall, mutatis mutandis, apply to such a [Land Use and Development Control Plan],

Amendment of Land Use and Development Control Plan.]

The words "Development Plan" were substituted for the word "Development Plan" by s. 4(j) of the Uttar Pradesh Town and Country (Planning and Development) (Amendment) Act, 1991 (West Ben. Act XXVI of 1991).

The words "Development Plan" were substituted for the word "Development Plan" by s. 4(k) of the Uttar Pradesh Town and Country (Planning and Development) (Amendment) Act, 1991 (West Ben. Act XXVI of 1991).

The words "Development Plan" were substituted for the word "Development Plan" by s. 4(k) of the Uttar Pradesh Town and Country (Planning and Development) (Amendment) Act, 1991 (West Ben. Act XXVI of 1991).

The words "Development Plan" were substituted for the word "Development Plan" by s. 4(k) of the Uttar Pradesh Town and Country (Planning and Development) (Amendment) Act, 1991 (West Ben. Act XXVI of 1991).

(Chapter VI.—Preparation of Land Use and Development Control Plans and Procedure for their Statutory Approval.—Sections 41-43.)

41. At any time after the date on which the [Land Use and Development Control Plan] for an area comes into operation, the Planning Authority or the Development Authority may, with the previous approval of the State Government, make such changes in the [Land Use and Development Control Plan] as may be necessitated by topographical and cartographical errors and omissions, details of proposals not fully indicated in the plan or changes arising out of the implementation of the proposals in the [Land Use and Development Control Plan]:

Changes in the [Land Use and Development Control Plan].

Provided that—

- (1) all such changes are in the public interest, and
- (2) all such changes are notified to the public.

42. (1) The State Government may, in the public interest or for any other sufficient reason, annul any [Land Use and Development Control Plan] or a portion thereof or any provision contained therein.

Annulment of the [Land Use and Development Control Plan].

(2) Immediately after the annulment of the [Land Use and Development Control Plan] or any portion thereof or any provision contained (herein, the State Government) shall publish a public notice of the said annulment.

⁵42A. Any plan, by whatever name called, prepared or adopted by any Planning Authority or Development Authority under any provision of this Act prior to the coming into force of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994, shall, on the coming into force of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994, be deemed to be a Land Use and Development Control Plan prepared or adopted, as the case may be, under this Act, as amended by the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994.

Validation of plan prepared or adopted prior to the coming into force of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994.

43. Any land required, reserved or designated in a [Land Use and Development Control Plan] or a Development Scheme under Chapter VIII shall be deemed to be land needed for a public purpose within the meaning of section 1 of the Land Acquisition Act, 1894 and may be acquired under the said Act.

Power to acquire land under the Land Acquisition Act, 1894.

The words within the square brackets were substituted for the words "Development Plan." by s. 4(l)(i) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

The words within the square brackets were substituted for the words "Development Plan." by s. 4(l)(ii), *ibid*

The words within the square brackets were substituted for the words "Development Plan." by s. 4(m)(i), *ibid*.

The words within the square brackets were substituted for the words "Development Plan" by s. 4(m)(ii), *ibid*.

Section 42A was inserted by s. 4(n), *ibid*

The words within the square brackets were substituted for the words "Development Plan" by s. 4(o), *ibid*

(Chapter VII.—Control of Development and Use of Land.— Sections 44, 45.)

CHAPTER VII Control of Development and Use of Land

44. After the coming into operation of any "[Land Use and Development Control Plan] in any area, no person shall use or permit to be used any land or carry out any development in that area otherwise than in conformity with such [Land Use and Development Control Plan]:

Use and development of land to be in conformity with Land Use and Development Control Plan.

Provided that the Planning Authority or the Development Authority may allow the continuance, for a period not exceeding 7 years, of the use, upon such terms and conditions as may be imposed by the concerned authority, of any land for the purpose and to the extent, and to which it is being used on the date on which such [Land Use and Development Control Plan] comes into operation.

45. After the coming into force of this Act in any area and subject to the provisions relating to the development charge and other provisions of this Act, no development, institution or change of use, of any land shall be undertaken or carried out in that area—

Prohibition of development without payment or development charges and without permission.

(a) without obtaining a certificate from the concerned authority certifying that the development charge as leviable under this Act has been paid or that no such development charge is leviable; and

(b) without obtaining the permission in writing as provided for hereinafter: Provided that no such permission shall be necessary—

(i) for the carrying out such works for the maintenance, improvement or other alteration of any building, which affect only the interior of the building or which do not materially affect the external appearance of the building;

(ii) for the carrying out by the Central or the State Government or any local authority of any works required for the maintenance or improvement of a highway, road or public street, being works carried out on land within the boundaries of such highway, road or public street;

(iii) for the carrying out by the Central or the State Government or any local authority of any works for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes, cables or other apparatus including the breaking open of any street or other land for that purpose;

The words within the square brackets were substituted for the words "Development Plan." by s. 5(a) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).
The words within the square brackets were substituted for the words "Development Plan" by s. 5(b). *ibid.*

XIII of 1979.J

- (iv) for the excavation (including wells) made in the ordinary course of agricultural operations;
- (v) for the construction of unmetalled road intended to give access to land solely for agricultural purposes;
- (vi) for normal use of land which has been used temporarily for other purposes;
- (vii) in case of land, normally used for one purpose and occasionally used for any other purpose, for the use of land for that other purpose on occasions;
- (viii) for use, for any purpose incidental to the use of a building for human habitation, or any other building or land attached to such building.

46. (1) Any person or body (excluding a department or the Central or Provincial Government or any local authority) intending to carry out any development on any land shall make an application in writing to the Planning Authority or Development Authority for permission in such form and containing such particulars and accompanied by such documents and plans as may be prescribed.

(2) On such application having been duly made, and on payment of the development charge as may be assessed under Chapter IX,—

- (a) the Planning Authority or the Development Authority may pass an order,—
 - (i) granting permission unconditionally; or
 - (ii) granting permission subject to such conditions as it may think fit; or
 - (iii) refusing permission.
- (b) without prejudice to the generality of clause (a) of this subsection the concerned authority may impose conditions—
 - (i) to the effect that the permission granted is only for a limited period and that after the expiry of that period, the land shall be restored to its previous condition or the use or the land permitted shall be discontinued;
 - (ii) for regulating the development or use of any other land under the control of the applicant or for the carrying out of works on any such land as may appear to the authority expedient for the purpose of the permitted development.

(3) (i) The concerned authority in dealing with the applications for permission shall have regard to—

- (a) the provisions of the [Land Use and Development Control Plan,] if it has come into operation; and

The words within the square brackets substituted for the words "development plan." by s. 13(1)(a) of the West Bengal Town and Country (Planning and Development) Amendment Act, 1994 (West Bengal Act No. 1 of 1994)

(b) The regulations, if any, made under section 139 and applicable to the land on which the development is intended to be carried out, the building rules, if any, of a Panchayat or a Municipality in so far as they are not inconsistent with the regulations as aforesaid and are applicable to such land, the provisions of Land Use and Development Control Plan as forwarded to the State Government under section 31 as modified thereafter, and any other material consideration.

Explanation.—"Panchayat" has the same meaning as in clause (d) of article 243, and "Municipality" has the same meaning as in clause (e) of article 243P, of the Constitution of India.

(ii) The provision of sub-section (1) shall not apply to applications under sub-section (5).

(4) When permission is granted subject to conditions or is refused, the grounds or imposing such conditions or such refusal shall be recorded in the order and the order shall be communicated to the applicant.

(5) In the case of a department of the Central or the State Government or any local authority (where the local authority is not also the Development Authority) intending to carry out any development other than operational constructions (which shall always be outside the purview of the Planning or Development Authority), on any land, the concerned department or authority, as the case may be, shall notify in writing to the Development Authority of its intention to do so, giving full particulars thereof and accompanied by such documents and plans as may be directed by the State Government from time to time, at least, one month prior to the undertaking of such development.

(6) Where the concerned authority raises any objection in respect of the conformity of the proposed development either to any [Land Use and Development Control Plan] under preparation, or to any of the building bye-laws in force at the time, or due to any other material consideration under sub-section (7), the department or the authority, as the case may be, shall—

- (a) either make necessary modifications in the proposals for development to meet the objections, or
- (b) submit the proposals for development together with the objections raised by the concerned authority to the State Government for decision. When proposals and objections have been submitted, no development shall be undertaken until the State Government has finally decided on the matter.

XIII of 1979.1 (Chapter VII—Control of Development and Use of Land- Sections 47-49.)

The West Bengal Town and Country (Planning and Development)

Act, 1979. The State Government on receipt of the proposals for development together with the objections of the concerned authority, shall either approve the proposals with or without modifications or direct the concerned authority

to make such modifications in the proposals as it considers necessary in the circumstances.

47. (1) Any applicant aggrieved by an order passed under section 46, or if no order is passed under that section, may appeal, within one month of the communication of the order to him or after the expiry of the period of three months from the date of submitting the application, as the case may be, in the manner and accompanied by such fees as may be prescribed, to the State Government or any officer of the State Government appointed in this behalf.

(2) The State Government or the said officer, on receiving the appeal and after giving a reasonable opportunity of hearing to the applicant and the concerned authority, may dismiss the appeal or allow the appeal and pass order—

- (a) grant permission unconditionally; or
- (b) granting permission subject to such conditions as may be considered fit; or
- (c) removing the conditions subject to which permission has been granted and imposing other conditions, if any, as may be considered fit.

Appeal against grant of permission subject to conditions or refusal of permission.

48. (1) Every permission for any development granted under this Act shall remain in force for a period of one year from the date of such permission.

(2) The concerned authority may, on application made in this behalf before the expiry of the aforesaid period, extend the same for such time as

it may think proper, but the total period shall in no case exceed three years.

(3) If any permission lapses under sub-section (1) or (2), such lapse shall not bar any subsequent application for fresh permission under this Act.

49. (1) Where any person, interested in the land and aggrieved by an order in appeal under section 47 refusing permission or granting permission subject to conditions, claims—

- (a) that the land has become incapable of reasonably beneficial use in the existing state, or
- (b) that the land, in a case where permission to develop has been granted subject to conditions, cannot be rendered capable of reasonably beneficial use by carrying out the permitted development in accordance with the conditions,

Lapse of permission,

he may within three months and in the manner prescribed serve on the State Government a notice (hereinafter referred to as an acquisition notice) requiring the State Government to acquire his interest in the land and a copy of the notice shall at the same time be served on the authority concerned.

(2) After receiving the notice, the State Government shall appoint a person who shall, after reasonable opportunity of hearing to the person serving the acquisition notice and the authority concerned, submit his report thereon to the State Government.

Obligation to acquire land on refusal of permission or on grant of permission in certain cases,

Chapter VII.— Control of Development and Use of Land— Section 50.)

- (3) The State Government, on a consideration of the report—
- (a) if satisfied that the conditions specified in clause (a) or (b) of sub-section (1) are not fulfilled, or
- (b) if satisfied that the conditions specified in clause (a) or (b) of sub-section (1) are fulfilled (1) regarding the land or any part of the land, shall pass an order,—
- (i) confirming the notice; or
- (ii) directing the concerned authority to grant such permission to develop the land or grant the permission subject to such conditions as will keep the land capable or reasonably beneficial use.

(4) If within the period of one year from the date on which an acquisition notice is served under sub-section (1), the State Government does not pass any order under sub-section (3), the notice shall be deemed to have been confirmed at the expiration of the period.

(5) Upon confirmation of the notice either under clause (b) of subsection (3) or under sub-section (4), the State Government shall proceed to acquire the land or that part of any land regarding which the notice has been confirmed within one year of the confirmation.

50. (1) Where an order in appeal under section 47 refusing to grant permission or granting permission subject to conditions, relates to any of the following developments—

Compensation for refusal of permission or grant of permission subject to conditions in clause (a), (b) or (c).

- (a) re-erection of a building which has been destroyed or demolished so long as the cubic content of the original building is not exceeded by more than one-tenth;
- (b) enlargement, improvement or other alteration of any building which was in existence on the date, the development plan relating to the area comes into operation for the first time, so long as the cubic content of the original building is not exceeded by more than one-tenth;
- (c) carrying out, on land used for the purpose of agriculture or any building or other operation required for that purpose, other than operations for the erection, enlargement, improvement or alteration of a building for human habitation or of a building used for the purpose of marketing of the produce of land;

XIII or 1979.J

(Chapter VII.—Control of Development and Use of Land.— Section 50.)

(d) where any part of any building or other land which on the date of coming into operation for the first time of the development plan relating to the area is used for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content, of the part of the building used for that purpose on that day, or, as the case may be, one-tenth of the area of the land so used on that date, the owner may, within the time and in the manner prescribed, claim upon the concerned authority, if he has not served an acquisition notice, or if the acquisition is not confirmed by the State Government under section 49 for an amount for such refusal or for grant of permission subject to conditions:

Provided that no amount shall be claimable if such refusal or grant of permission subject to conditions was based on any provision of any development plan.

(2) When a claim is received by such officer of the concerned authority as may be appointed in this behalf he shall, after giving an opportunity of hearing to the applicant, make a report to the concerned authority.

(3) (i) On receipt of the report referred to in sub-section (2), the concerned authority shall consider it and assess the amount and offer it to the owner,

(ii) The amount shall be equal to—

(a) where permission is refused, the difference between what would have been the value of the land if the permission had been granted and the value of the land in its existing state:

(b) where permission is granted subject to conditions, the difference between what would have been the value of the land if the permission had been granted unconditionally and what would be the value of the land with permission granted subject to conditions.

(4) If the owner does not accept the amount and gives notice, within thirty days from the date of offer, of his refusal to accept, the concerned authority shall refer the matter for the adjudication of the Court and the decision of the Court shall be final and binding on the owner and the authority.

Explanation.—The expression "Court" means a principal Civil Court of original jurisdiction, and includes any other Civil Court empowered by the State Government to perform the function of the Court under this Act within the pecuniary and local limits of its jurisdiction.

*(Chapter VI.—Control of Development and Use of Land.—
Section 51.)*

**Power of
revocation
and i
modification
of permis-
sion in
develop.**

51. (J) If it appears to the Planning Authority or the Development Authority that it is expedient, having regard to the [Land Use and Development Control Plan] prepared or under preparation or to be prepared and to any other material consideration, that any permission to develop land granted under this Act or any other law, should be revoked or modified, the Planning Authority or the Development Authority may, by order, revoke or modify the permission to such extent as appears to it to be necessary:

Provided that—

- (a) where the permission relates to the carrying out of building or other operations, no such order shall,—
 - (i) affect such of the operations as have been previously carried out;
 - (ii) be passed after these operations have been completed;
- (b) where permission relates to & change of use of land, no such order shall be passed at any time after the change has taken place.

(2) When permission is revoked or modified by an order made under subsection (1), if the owner claims from the Planning Authority or the Development Authority within thirty days from the date of revocation or modification, an amount for the expenditure incurred in carrying out the works after the grant of permission and in accordance with such permission, which has been rendered abortive by the revocation or modification, the Planning Authority or the Development Authority shall, after giving the owner a reasonable opportunity of hearing by an officer appointed by it in this behalf, and after considering the officer's report assess and offer such amount to the owner as it thinks fit.

(3) If the owner does not accept the amount and gives notice, within thirty days from the date of offer, the Planning Authority or the Development Authority shall refer the matter for the adjudication of the Court and the decision of the Court shall be final and binding on the owner and the concerned authority.

Explanation.—The expression "Court" has the same meaning as in section 50.

The words within the square bracket* were substituted for the words "duvdopucijil p] a n ' hy s. 7 a l' l m W CM B e n KH I Tow n a nd Cou n'.ry (P l; i n n i ng anil De vc I op me n i) [A mend me n i) Act. 1994 (West Ben. Act XXVI of IW).

52. (1) Any person who, whether on his own instance or in the instance of any other person, commences, undertakes or carries out development, or changes use of any land or building,—

- (a) in contravention of any [Land Use and Development Control Plan];
- (b) without obtaining a certificate regarding development charge under clause (a) of section 45;
- (c) **without permission as required under this Act;**
- (d) in contravention of any condition subject in which such permission has been granted;
- (e) after the permission for development has been revoked under section 51; or
- (f) in contravention of the permission which has been modified under section 51;

Penalty for unauthorised development or for use otherwise than in conformity with the [Land Use and Development Control Plan.]

shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both, and in the case of a continuing offence with a further fine which may extend to five hundred rupees for every day during which the offence continues.

(2) any person who continues to use or allows the use of any land or building in contravention of the provisions of a [Land Use and Development Control Plan] without having been allowed under section 44 or where the continuance of such use has been allowed under that section, continues such use after the period for which the use has been allowed or without complying with the terms and conditions under which the continuance of such use is allowed, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or with both, and in the case of a continuing offence with a further fine which may extend to two hundred and fifty rupees for every day during which such offence continues.

53. (1) Where any development or land has been or is being carried out as mentioned in section 52, the Planning Authority or the Development Authority shall serve on the owner a notice requiring him, within a period of one month after the service of the notice, to take such steps as may be specified in the notice, which shall be—

- (a) in cases specified in clauses (a), (c) or (e) or sub-section (i) or section 52 to restore the land to its condition before the said development took place;

Notice regarding unauthorised development or use otherwise than in conformity with the [Land Use and Development Control Plan.]

The words within the square brackets were substituted for the words "development plan" by s. 5(a) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West. Ben. Act XXV of 1994).

The words within the square brackets were substituted for the words "development plan" by s. 8(b), *ibid.*

The words within the square brackets were substituted for the words "development plan" by s. 9, *ibid.*

(Chapter VI.—Control of Development and Use of Land.—
Section 53.)

- (b) in a case specified in clause (b) of sub-section (1) of section 52 to pay the development, charge and such penalty, if any, as may be prescribed:
 - (c) in cases specified in clauses (d) or (f) of sub-section (1) of section 52 to secure compliance with the conditions or with the permission as modified,
- (2) In particular, any such notice may, for the purpose aforesaid, require—
- (a) the demolition or alteration of any building or works;
 - (b) the carrying out on land, of any building or other operations; or
 - (c) the discontinuance of any use of land:
Provided that in case the notice relates to the discontinuance of any use of land, the Planning Authority or the Development Authority shall serve a notice on the occupier also,
- (3) Any person aggrieved by such notice may, within the period specified in the notice—
- (a) apply for permission under section 46 for the retention on the land of any buildings or works or for the continuance of any use of the land, to which the notice relates: or
 - (b) apply to the concerned authority for reconsideration and withdrawal of the notice,
- (4) (a) The notice shall be of no effect pending the final determination or withdrawal of the application.
- (b) (i) The provisions of sections 45, 46 and 47 shall apply to such application with such modifications as may be necessary.
- (ii) If permission is granted on an application made under clause (a) of sub-section (3), the notice shall not take effect, or if such permission is granted for the retention only of some buildings or works or for the continuance of use of only a part of the land, the notice shall not take effect regarding such buildings or works or such part of the land, but shall have full effect regarding other buildings or works or other parts of the land.
- (5) The authority or any officer of the authority, appointed in (his behalf, may dismiss the application or accept it by quashing or varying the notice as he may think fit.
- (6) If within the period specified in the notice or within such period after the disposal or withdrawal of the application under sub-section (3), the notice or so much of it as continues to have effect, or the notice with variation made under sub-section (5) is not complied with, the Planning Authority or the Development Authority may—
- (a) prosecute the owner for not complying with the notice and in case where the notice required the discontinuance of any use of land, any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and

*(Chapter VII.—Control of Development and Use of Land.—
Section 54.)*

- (b) (i) in the case of a notice requiring the demolition or alteration of any building or works or carrying out of any building or other operations, itself cause the restoration of the land to its condition before the development took place and secure (he compliance with the conditions of the permission or with the permission as modified, by taking such steps as the Planning Authority or the Development Authority may consider necessary including demolition or alteration of any building or works or carrying out of any building or other operations;
- (ii) the Planning Authority or the Development Authority may recover the cost of any expenses incurred by it in this behalf from the owner as arrears of land revenue,

(7) Any person prosecuted under clause (a) or sub-section (6) shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees, or with both. and in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day during which such offence continues,

54. (1) Where any development of land as mentioned in section 52 is ^{POWER TO} being carried out but has not been completed, the Planning Authority or the unauthorised Development Authority may serve on the owner and the person carrying out ^{development} the development a notice requiring the development of land to be discontinued from the time of the service of such notice.

(2) Where such notice has been served, the provisions of clause (b) of sub-section (4) and sub-section (5) of section 53 shall apply with such modifications as may be necessary:

Provided that the provisions of clause (a) of sub-section (4) of section 53 shall not apply and in spite of the filing of application under clauses (a) or (b) of sub-section (3) or section 53 the notice shall continue to have full effect.

(3) If such notice is not complied with forthwith, the Planning Authority or the Development Authority, or such officer of the concerned authority, who may be authorised in this behalf, may require any police officer to remove such person and all assistants and workmen from the land at any time after the service of such notice and such police officer shall comply with the requisition accordingly.

(4) After the requisition under sub-section (3) has been complied with, the Planning Authority or the Development Authority, or such officer of the concerned authority who may be authorised in this behalf, may, if he or she thinks fit, direct, by a written order, a police officer or any officer or employee of the Planning Authority or the Development Authority to watch the land in order to ensure that the development is not continued.

(5) Where a police officer or an officer or employee of the Planning Authority or Development Authority has been deputed under sub-section (4) to watch the land, the cost of such deputation shall be paid by the person at whose instance such development is being continued or to whom notice under sub-section (1) was given and shall be recoverable from such person as arrears of land revenue.

55. (1) If it appears to the Planning Authority or the Development Authority that it is expedient in the interest or the proper planning of its areas (including the interests or amenities), having regard to the [Land Use and Development Control Plan] prepared, or under preparation, or to be prepared, and to any other material consideration—

- (a) that any use of land should be discontinued; or
- (b) **That any conditions should be imposed on the continuance thereof; or**
- (c) That any building or works should be altered or removed, the Planning Authority or the Development Authority may, by notice served on the owner,—

(i) require the discontinuance of that use; or

(ii) impose such conditions, as may be specified in the notice, on the continuance thereof; or (iii) require such steps, as may be specified in the notice, to be taken for the alteration or removal of any buildings or works, as the case may be, within such period, being not less than one month, as may be specified therein, after the service of the notice.

(2) Any person aggrieved by such notice may, within the period specified in the notice, apply to the authority for the cancellation of the notice.

(3) If an application is filed under sub-section (2) the provisions of subsections (4) and (5) of section 53 shall apply, with such modifications as may be necessary.

(4) If any person—

- (a) who has suffered damage in consequence of the compliance with the notice, by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, or

The words within the square brackets were substituted for the words "development plan" by s. 10 of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

xm of 1979.]

(Chapter VII.—Control of Development and Use of Land.— Section 56.—Chapter VIII.—
Development Schemes.— Section 57.)

(b) who has carried out any works in compliance with the notice, claims, from the Planning Authority or the Development Authority within the time and in the manner prescribed. For an amount in respect of his damage, or of any expenses reasonably incurred by him for complying with the notice, the provisions or sub-sections (3) and (4) of section 50 shall apply with such modifications as may be necessary.

(5) (a) If any person interested in the land in respect of which a notice is issued under this section, claims that by reason of the compliance with the notice, the land will become incapable or reasonably beneficial use, he may within the period specified in the notice or within such period after the disposal of the appeal, if any, filed under sub-section (2) and in the manner prescribed, serve on the State Government, an acquisition notice requiring his interest in the land to be acquired.

(b) When a notice is served under clause (a) the provisions of subsections (2) to (5) or section 49 shall apply with such modifications as may be necessary.

56. Where the Planning Authority or the Development Authority, in the exercise of its functions and powers with respect to any area under it, is required to have regard to the provisions of [Land Use and Development Control Plan] before such [Land Use and Development Control Plan] has become operative. The concerned authority shall have regard to the provisions which, in its opinion, will be required to be included for securing the proper planning of the concerned area.

Interim provision pending preparation of [Land Use and Development Control Plan.]

CHAPTER VIII Development Schemes.

57. A Development Authority may, as soon as may be, after the [Land Use and Development Control Plan] has been approved by the State Government, for the purpose of implementing the proposals contained in the ³ [Land Use and Development Control Plan], prepare one or more development schemes for the area within its jurisdiction or any part thereof.

Preparation of development schemes.

¹The words within the square brackets were substituted for the words "development plan" by s. 11(a) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

²The words within the square brackets were substituted for the words "development plan" by s. 11(b). *ibid.*

³The words within the square brackets were substituted for the words "development plan" by s. 12. *ibid.*

(Chapter VIU.—Development Schemes.—Section 55.)

Scope of the
development
scheme.

58. (1) A scheme may be made in accordance with the provisions of this Act in respect of any land which is—■

- (a) in the course of development,
- (b) likely to be used for building and other purposes, or
- (c) already built upon.

Explanation.—The expression 'land likely to be used for building and other purposes' shall include any land likely to be used as, or for the purpose of providing open spaces, roads, streets, parks, pleasure or recreational grounds, parking spaces, or for the purpose of executing any work upon or under the land incidental to a scheme, whether in the nature of a building work or not,

(2) Such schemes may make provisions for all or any of the following matters:—

- (a) the laying out or relaying out of land, either vacant or already built upon;
- (b) the filling up or reclamation of low lying swamp or land to which damage has been caused by subsidence due to operation of mines or unhealthy areas or levelling up of land;
- (c) the laying out of new streets of roads, construction, diversion, extension, alteration, improvement and stopping up of streets, roads and communications;
- (d) the reconstruction of plots;
- (e) the construction, alteration or removal of buildings, bridges or other structures;
- (f) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets, industrial and commercial activities, green belts and dairies, transport facilities and public purposes of all kinds;
- (g) the undertaking of housing schemes for different income groups, commercial areas, industrial estates, provision of community facilities like schools, hospitals, and similar types of developments;
- (h) drainage inclusive of sewerage, surface or sub-soil drainage and sewage disposal;
- (i) lighting;
- (j) water supply;
- (k) the preservation and protection of objects of historical importance or natural beauty and of buildings actually used for religious purpose;

- (l) The imposition or conditions and restrictions in regard to the open space to be maintained about buildings, the percentage of building area for a plot, the number, height and character of buildings allowed in specified areas, the purposes for which buildings or specified areas may or may not be appropriate, the sub-division of plots, the discontinuance or objectionable uses of land in any area in reasonable periods, parking space and loading and unloading space for any building and the size of projections and advertisement signs;
- (in) the suspension, to the extent necessary, for the proper carrying out of the scheme, or any rule, bye-law, regulation, notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend;
- (n) acquisition by purchase, exchange or otherwise of any property necessary for or effected by the execution of the scheme; and
- (o) such other matters not inconsistent with the objects of this Act, as may be directed by the State Government.

59. The Scheme shall contain, so far as may be necessary, the contents of following particulars;—
the scheme

- (a) the area, ownership and tenure of all existing plots covered by the scheme;
- (b) the land allotted or reserved under clause (f) of sub-section (2) of section 51 with a general indication of the uses to which such land is to be put and the terms and conditions subject to which such land is to be put to such uses;
- (c) a full description of all the details of the scheme under such clause or sub-section (2) or section 58 as may be necessary;
- (d) the laying out or relaying out of the land either vacant or already built upon;
- (e) the filling up or reclamation of low lying swamp or land to which damage has been caused by subsidence due to operation of mines or unhealthy areas or levelling up of land;
- (f) the extent to which it is proposed to alter the boundaries of the existing plots in accordance with the proposed schemes;
- (g) an estimate of the total cost of the scheme and the net cost to be borne by the Development Authority; and
- (h) any other particulars which may be prescribed.

60 (1) In a scheme reconstituting the plots, the size and shape of every reconstituted plot shall be determined, so far as may be, to render it suitable for building purposes, and where a plot is already built upon, to ensure that the buildings, as far as possible, comply with the provisions of the scheme as regards open spaces.

[West Ben. Act

(Chapter VIJL.—Development Schemes.—Sections 61, 62.)

- (2) For the purpose of sub-section (1), the scheme may contain proposals—
 - (a) to form a filial plot by reconsiilution of all existing plol by alteration of the boundaries of liie existing plot, if necessary;
 - (b) to form a reconstituted plot from an existing plol by the transfer wholly or partly of the adjoining lands;
 - (c) to provide, with the consent of ihe owners, that two or mure existing plots each of which is held in joint-ownership or in se vera! Lyshul I thercu Tier wiiorwithoul alteration of boundaries, be held in ownership in common as a recco lis ii luted pioi;
 - (cf) to alloL a reconstituted plol loany person if dispossessed of land in furtherance of ihe same: and
 - (e) to transfer the ownership of an existing plol from one person to another.

Pubticniin 61. (1) As soon ax may be, alter lhc schemc under section 57 has Scheme. been prepared, ihc Development Aulhority shall publish the scheme in lhc Official Gazelle and in one or more local newspapers specifying the pl.icc or places where copies of llic same may be inspected, and inviting objections in writing from any person with respect to the schemc wiilin such period as may be specified in the notice which shall nol be less than uvo months from ihc dote of publication of the notice in the Official Gazette:

Provided that no such notice shall be required where landcovered by Hie scheme has already been acquired nnd the execution of lhc schcme docs nol atTcet the interest or any person.

(2) Simultaneously with lhc publication of lhc schcme lhc Development Authority shall submit copies of lhc notice and of lhc scheme to the Slate Government drawing particular attention lo the provision in the scheme, if any, referring to clause (ni) of sub-section (2) of section 58.

(3) The publication or lhc scheme as provided under sub-section (1) of this scction shall, notwithstanding anything contained in lhc Land 1 of 1894. Acquisition Act, 1894, be deemed to be a declaration duly made under section 4 or the said Act,'

Power of
Lhe State
Govern
men l

62. (1) Notwithstanding anything contained in Hits Act the Slate Government may, after making such inquiry as il deems necessary, by io remiire ihc notification, direct the Development Authority to make and publish in such mem⁰¹¹ manner as the Slate Government may direct, a schcme in rcspect of any land make^{0m,5r lo rcgarc:10 w} which a development scheme may be made. scheme.

]dt>

*The Iki'Jf Bengal Town and Country (Planning and Development)
Act, 1979.*

XIII of 1979.]

(Chapter V/H.—Development Schemes.—Sections 63, 64.)

(2) If the Development Authority fails to make the scheme within three months from the date of direction given under sub-section (1) or within such time as the State Government may extend from time to time, an officer shall be appointed by the State Government to make and publish and submit the scheme for the land to which [hereafter the provisions of this Act shall apply to the making of such scheme.

63. (1) Where the Development Authority has published the scheme under sub-section (1) of section 61, the State Government may, on an application of the Development Authority, by order published in the *Official Gazette*, suspend to such extent only, as may be necessary for the purpose of completing the scheme. Any rule, bye-law, regulation or order made or issued under any law which the Legislature or the State is competent to amend.

Power or State Government to suspend rules, bye-laws, etc.

(2) Any order issued under sub-section (1) shall cease to operate in the event of the scheme being withdrawn by the said authority either on its own motion or under the directions of the State Government under section 71.

64. (1) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which the scheme has been published under sub-section (1) of section 61 and any entry in the records of rights or mutation register relevant to such disputed claims is inaccurate or inconclusive, an enquiry may be held on a submission being made by the Development Authority at any time prior to the date of final publication of the scheme under section 70, by such officer as the State Government may appoint for the purpose of deciding who shall be deemed to be owner for the purpose of this Act.

Procedure in case of disputed claims in land.

(2) The decision under sub-section (1) shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(3) Such decision shall be corrected, modified or rescinded as may be necessary to give effect to the decree or order of the Civil Court after the same has been brought to the notice of the Development Authority either by the Civil Court or by any person affected by such decree or order.

(4) Such decision shall, in the event of the Civil Court passing a decree or order which is inconsistent (herewith, be corrected, modified or rescinded in accordance with such decree or order as may be practicable after such decree or order has been brought to the notice of the Planning Authority or the Development Authority either by the Civil Court or by any person affected by such decree or order.

(5) Where such a decree or order of the court is passed after the scheme has been published, such scheme shall be deemed to have been suitably varied by reason of such decree

(Chapter VIII.—Development Schemes.—Section 65.)

Restrictions on use and development of land after the public acquisition or the scheme.

65. (1) On or after the date on which the scheme is published in the *Official Gazette* under sub-section (1) of section 61 —

- (a) no person shall within the area included in the scheme erect or proceed with any building work, remove, pull down, alter, make additions to or make any substantial repair to any building, part of a building, a compound wall or any drainage work or remove any earth, stone or material, or sub-divide any land or change the use of any land or building unless such person has applied for and obtained necessary permission from the Development Authority in the form prescribed;
- (b) the Development Authority on receipt of an application referred to in clause (a) shall forthwith furnish the applicant with a written acknowledgement of its receipt and may, after an enquiry, either grant or refuse such permission or grant it subject to such conditions as the Development Authority may think fit to impose. If the Authority communicates no decision to the applicant within three months from the date of such acknowledgement, the applicant shall be deemed to have been granted such permission;
- (c) if any person contravenes the provisions contained in clause (a) or clause (b), the Development Authority may direct such person by notice in writing to stop any work in progress and after making inquiry in the prescribed manner, remove, pull down, or alter any building or other work or restore the land in respect of which such contravention is made to its original condition: and
- (d) any expenses incurred by the concerned Authority under clause (c) shall be a sum due to such Authority under this Act from the person in default or the owner of the plot.

(2) No person shall be entitled to any compensation in respect of any damage, loss or injury resulting from any action taken by the Development Authority under sub-section (1) or (his) except in respect of a building or work begun or a contract entered into before the date on which the Development Authority published the scheme under sub-section (1) of section 61 or the notification under sub-section (1) of section 62 was published by the State Government and only in so far as such building or work has proceeded at the time of the publication of the scheme:

Provided that such claim to compensation in the excepted cases shall be subject to the conditions or any agreement entered into between such

XIII or 1979.1

(Chapter VIII,—Development Schemes.—Section 66J

(3) Where under clause (a) of sub-section (2) of section 58 or under section 59, the purposes to which,—

- (a) any plot of land may not be used has been specified, such plot upland shall, within such period of not less than one year as may be specified in the scheme, cease to be used for the purposes and shall be used only for the purpose specified in the scheme;
- (b) any existing building may not be used has been specified, such building shall, within such period of not less than three years as may be specified in the scheme cease to be used for any purpose other than the purposes specified in the scheme; and
- (c) any plot of land with existing buildings may not be used has been specified in the scheme and the existence of such buildings is inconsistent with the provisions of the scheme, such buildings shall, within such period of not less than ten years as may be specified in the scheme, cease to exist:

Provided that such period shall not be less than the reasonable life of the buildings.

(4) Any person aggrieved by the decision of the Development Authority under this section may, within sixty days from the date of the decision, appeal to the Authority as may be prescribed and the order of such Authority in the appeal shall be final.

(5) The provisions of section 50 shall, *mutatis mutandis*, apply in relation to the unauthorised development or use of land included in a development scheme.

(6) The restrictions imposed by this section shall cease to operate in the event of the scheme being withdrawn by the Planning Authority or the Development Authority on its own or on the direction of the State Government under section 71.

66. (1) Where the Development Authority thinks that in the interest of the public it is necessary to undertake forthwith any of the works included in a scheme for a public purpose, the said Authority shall make an application to the State Government that the land required for the scheme shall vest in the Authority provided there is no building on it,

(2) The State Government may, if satisfied that it is urgently necessary in the public interest to empower the Development Authority to enter on such land for the purpose of executing any of such work, direct such Authority by notification to take possession of the land.

[Wcs] Ben. Act

*The IVt'jf Bengal Town and Country fPlanning and Development)
Act, 1979.*

152

(Chapter VIII.—Development Schemes.—Sections 67-70.)

(3) The said Aulliorily shall Mien give a notice in the prescribed manner lo the person interested in the land, the possession of which is lo be laken requiring him to give possession of the land lo the said Aulliorily or any person aulhorised by it in this behalf within a period of one monlh from the daii: or service of the notice: and if no possession is delivered within the period specified in the notice, such Auihoriiy shall take possession of the land. Such land shall thereupon, notwithstanding anything contained in this Act. vest absolutely in the said Authority free from all encumbrances.

Miigisimte lo enforce delivery of possession of land.

67. (1) I fthe Development Aulliorily is opposed or obstructed in taking possession of the land under seciion 66, it shall apply to the Commissioner of Police. [Kolkala], or lo the District Magislrale of the District, within whose jurisdiction the land is situated, lo enforce the delivery of the possession of the land to the said Authority. The Commissioner of Police, [Kolkala], or the District Magistrate, as the case may be, shall takcorcause Lo be laken such steps and use or cause Lo be used such force us may be reasonably neccessary Tor securing the del i very of possession ofi he land to the Auihoriiy.

(2) For the avoidance or doubt, it is hereby declared Lhai the power to lake steps under sub-scclion (1) includes the power lo enter upon any land or other property whatsoever.

Persons i me res led in land of which possession is taken entitled lo i merest.

68. Where possession of the land is laken by the Developmeni Auihoriiy under sections 66 or 67, the person interested in such land shall be eniiled to interest ai the rale of six *per cent, per annum* on the amount payable lo him under the scheme in respect of the said land from the date on which such possession is taken till the dale on which the amount is paid lo him by the concerned Authority.

Consideration of objections and submission of scheme lo Lhc Stale Govern ill do l.

69. After the expiry of the period specified in sub-section (1) of section 61 Lhc Development Auihoriiy .shall examine the scheme in the light of the objections that may be received, giving a reasonable opportunity gf being heard to all such interested persons who have filed objections and who have made requests far being so heard in the manner prc.scribcd and make such amendments in the scheme as may be considered proper and shall, as soon as may be, but not later than the time prescribed by the rules, prepare the scheme with or without modifications and submit it lo the Stale Government together with a copy of the objections received by il and ils decisions thereon.

Public notice of the scheme.

70. (1) Simultaneously with the submission or the schemc to the Stale Government, the Development Authority shall publish notice in the *Official Gazelle ami* in a local newspaper of the scheme and the place or places where copies of the scheme may be inspeelcd.

iVf fool-rtolc I oil p.ipc 11 (J. *unte*.

(Chapter VIII.—Development Schemes—Sections 71, 72.)

(2) The public notice under sub-section (1) shall specify a date (which shall not be earlier than one month after the date of the publication of the notice) on which the scheme shall take effect and come into force: *Provided that the State Government may, from time to time, by notification, on any such date, by such period not exceeding three months at a time as it thinks fit.*

- (3) The publication or the notice under sub-section (1) shall be—
 - (a) conclusive evidence that the scheme has been duly prepared and adopted; and
 - (b) notwithstanding anything contained in the Land Acquisition Act, 1894, deemed to be a declaration duly made under section 6 of the said Act,

1 of ISM.

71. (1) If at any time before the publication of the notice of the scheme under section 70, a representation is made to the Development Authority in this behalf by a majority of the owners in the area that the scheme should be withdrawn, the Development Authority shall, if it is satisfied that the scheme is not in the public interest, withdraw the scheme or any part thereof and upon such withdrawal, no further proceedings shall be taken in regard to such scheme or such part.

Withdrawal of scheme by Development Authority.

(2) After receiving the objections, if any, and after making such inquiry as may be necessary, the Development Authority may, by notification, withdraw the scheme or any part thereof and upon such withdrawal, no further proceedings shall be taken in regard to such scheme or such part.

(3) Simultaneously with such withdrawal, the Development Authority shall submit to the State Government the copy of the notice withdrawing the scheme and a report of its enquiry made in this behalf.

(4) At any time before the publication or notice of the scheme under section 70, the State Government, if it is satisfied that it is in the public interest, may direct the concerned Authority to withdraw the scheme or part thereof. Thereupon the said Development Authority shall withdraw the scheme or such part by a notification. Upon such withdrawal no further proceedings shall be taken in regard to such scheme or such part thereof.

72. On and after the day on which a scheme comes into force—

- (a) all lands required by a Development Authority shall, unless it is otherwise determined in such scheme, vest absolutely in the said Authority free from all encumbrances;
- (b) all rights in the plots which have been reconstituted shall determine, and the reconstituted plots shall become subject to the rights settled by the Development Authority;
- (c) the said Authority shall hand over possession of the reconstituted plots to the owners to whom these are allotted in the scheme.

(Chapter VIII.—Development Schemes.—Section 73.)

73. (1) As soon as may be after publication of the notice of the scheme contained in the Official Gazette under sub-section (L) of section 70, but not later than the time prescribed by rules, the Development Authority shall, in accordance with the procedure that may be prescribed, proceed to—

- (a) define, demarcate and decide the areas allotted to, or reserved, for the public purpose or purposes of the said Authority, and also the reconstituted plots;
- (b) **decide the person or persons to whom a reconstituted plot is to be allotted; when such plot is to be allotted; and when such plot is not to be allotted to persons in ownership in common, decide the shares of such persons;**
- (c) estimate the value of and fix the difference between the values of the existing plots and the values of the reconstituted plots included in the scheme, in accordance with the provisions contained in clause (O) of sub-section (1) of section 87;
- (d) estimate the compensation payable for the loss or the area of the existing plot in accordance with the provisions contained in clause (Q) of sub-section (1) of section 87 in respect of any existing plot which is wholly acquired under the scheme;
- (e) determine whether the areas allotted or reserved for the public purpose or purposes of the Development Authority are beneficial to the owners or residents within the area of the scheme;
- (f) estimate the proportion of the sums payable as compensation on each plot used, allotted or reserved for public purpose or for the purposes of the Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the costs of the Scheme;
- (g) determine the proportion of contribution to be levied on each plot used, allotted or reserved for purposes of the Development Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;
- (h) determine the amount of exemption, if any, from the payment of the contribution, that may be granted in respect of plots or portions thereof exclusively used or occupied for religious or charitable purposes on the date of publication of the notice of the scheme under section 70;
- (i) estimate the value of the reconstituted plots included in the scheme and the increment to accrue in respect of such plots in accordance with the provisions of section 88;
- (j) calculate the proportion in which the increment in respect of the reconstituted plots included in the scheme shall be liable to contribution to the cost of the scheme in accordance with the provisions contained in section 89;

(Chapter VIII.—Development Schemes.—Section 74.)

(k) calculate the contribution to be levied on each reconstituted plot included in the scheme;

(l) determine the amount to be deducted from or added to, as the case may be, ~~the contribution levied on a person in accordance with the provisions contained in section 90;~~ *The We. Regional Council (Planning and Development) Act, 1979.*

155 (m) provide for the total or partial transfer of any right in an existing plot to a reconstituted plot or provide for the extinction of any right in an existing plot in accordance with the provisions contained in section 91;

(n) where a plot is subject to a mortgage with possession or a lease, decide the proportion of compensation payable or contribution payable by the mortgagee or lessee on one hand and the mortgagor or lessor on the other;

(o) estimate, with reference to claims made before it, after the notice given by it in the prescribed manner, the amount to be paid to the owner of any property or right injuriously affected by the making of a scheme in accordance with the provisions contained in section 92;

(p) determine the period in which the works provided in the scheme shall be completed by the Development Authority;

Provided that the Development Authority may make variations from the scheme subject to the condition that any variation estimated by it to involve an increase of ten per cent.

in the total cost of the scheme or rupees one lakh, whichever is lower, shall require the sanction of the State Government;

Provided further that no substantial variation shall be made without the consent of the State Government and without hearing any objections which may be raised by the owners concerned.

(2) The State Government may, if it thinks fit, whether the period prescribed by rules for deciding all the matters stated in sub-section (1) has expired or not, extend from time to time by notification in the *Official Gazette*, the period for deciding the matter referred to.

74. (1) (a) From every decision of the Development Authority in Appeal, matters arising out of clauses (a), (b), (c), (n) and (o) of sub-section (1) of section 73, an appeal shall lie within one month from the date of the decision, to the authority to be prescribed.

(b) Any person aggrieved by the order of the prescribed authority under clause (a) may prefer an appeal within sixty days from the date of the order of the prescribed authority, to the District Judge within the local limits of whose jurisdiction the area included in the scheme is situated.

(c) The District Judge may hear the appeal or transfer the appeal filed before him to an Additional District Judge for disposal.

(Chapter VIII.—Development Schemes.—Section 75.)

(J) The District Judge or the Additional District Judge, as the case may be, may after hearing the parties either direct the concerned Authority to reconsider its proposals or accept, modify, vary or reject the proposals of such Authority and shall decide all matters arising out of the different clauses of sub-section (i) of section 73 and referred to in clause (a) of this sub-section,

14fi
Act, 1979.

- (c) The decision of the District Judge or the Additional District Judge, as the case may be, shall be final and binding on all the parties and a copy of such decision shall be sent to the concerned Authority.

(2) (a) Any decision of the Development Authority under clauses (d) to (m) (both inclusive) and clause (p) of sub-section (i) of section 73 shall be forthwith communicated to the party concerned and any party aggrieved by such decision may within sixty days from the date of communication of the decision, appeal to the Tribunal of Appeal, appointed under section 75, for decision,

(b) The provisions of sections 5, 12 and 14 of the Limitation Act, 1963, shall apply to appeals submitted under this section.

Tribunal of Appeal. (1) As soon as may be, after the Development Authority has decided the matters referred in sub-section (1) of section 73, the State Government shall, if necessary, appoint a Tribunal of Appeal, hereinafter referred to as the Tribunal, to hear and decide appeals arising out of matters referred to in clause (a) of sub-section (2) or section 74,

(2) The Tribunal shall consist of a Chairman and two assessors.

(3) The Chairman shall be an officer of the rank of District Judge or such Judicial Officer as may be appointed by the State Government.

(4) The Chairman shall appoint fit and proper persons as assessors who shall, as far as possible, have knowledge, or experience of town planning, valuation of land or civil engineering.

(5) The Chairman and the Assessors shall be appointed members of the Tribunal for such period as the State Government may, by notification, specify for deciding appeals preferred against the decision under clauses (d) to (m) (both inclusive) and clause (p) of sub-section (i) of section 73.

(6) The State Government may, if it thinks fit, remove for incompetence or misconduct or for any other good and sufficient reasons, any Assessor appointed under sub-section (4).

(7) If any Assessor is removed or dies or refuses or neglects to act or becomes incapable of acting, the Chairman shall appoint forthwith a fit and proper person to take the place of such Assessor.

XIII of 1979.]

(Chapter VIII.—Development Schemes.—Section: 76-til.)

76. The Tribunal may sit either at [the headquarters of the Chairman or place which he may deem convenient for the consideration and decision of any matter before such Tribunal.

The West Bengal Town and Country (Planning and Development)

77. All questions of law and procedure shall be decided by the Chairman. All other questions shall be decided by the Chairman and the two Assessors or by a majority,

Decision of questions or law and other questions,

78. (J) The Tribunal shall, after hearing, either confirm the proposals of the Development Authority or direct it, where necessary, to reconsider, vary or modify its proposals.

Powers of Tribunal to decide matters finally.

(2) Every decision of the Tribunal shall be final and binding on all the parties including the Development Authority. A copy of the decision of the Tribunal shall be sent to such Authority.

79. Nothing contained in this Act shall be deemed to constitute the Tribunal to be a Civil Court.

Tribunal not to be Court,

80. (1) The Assessors shall, save where they are salaried Government Officers, be entitled to such remuneration, either by way of monthly salary or by way of fees or partly in one way and partly in the other, as the State Government may, from time to time, decide:

Remuneration of Assessors and other expenses of Tribunal,

Provided that, in exceptional cases where the scheme is a large one or the work involved is complicated, the State Government may authorise the Chairman and the Assessors, even if they are salaried Government Officers, to receive such special salary or remuneration, as the State Government may, by order, decide from time to time.

(2) The salary of the Chairman of the Tribunal or an Assessor who is a salaried Government Officer, and any remuneration payable under sub-section (1) of this section and all expenses incidental to the working of the Tribunal shall, unless the State Government otherwise determines, be defrayed out of the funds of the Development Authority and shall be added to the cost of scheme.

81. (1) Where no appeal has been preferred under section 74, the decision of the Development Authority shall be final and binding on the parties.

Decision of the Development Authority to be final in certain matters.

(2) Where an appeal has been preferred under section 74 and a copy of the decision in appeal is received by the concerned Authority, it shall then, where necessary, make variations in the scheme in accordance with such decision and may also rectify such errors or omissions, if any, as

(Chapter VIII.—Development Schemes.—Sections 82-84.)

[West Ben. Act

may have been brought to his notice after publication of notice of the scheme and shall also forward such scheme or schemes together with a copy of his decisions and a copy of the decisions in appeal to the State Government.

82. (1) On and after the day on which a scheme comes into force, any person continuing to occupy any land which he is not entitled to occupy under the scheme may, in accordance with the prescribed procedure, be summarily evicted by the Development Authority or any of its officers authorised in that behalf.

(2) If the Development Authority is opposed or obstructed in evicting such person occupying possession of land from such persons, the Commissioner of Police, Kolkata or the District Magistrate, within whose jurisdiction the land is situated, shall, on the application of the Authority, enforce the eviction of such persons or secure delivery of possession of the land to such Authority.

Power of the
Development
Authority to
evict summarily.

83- (i) On and after the day on which the notice of a scheme has been published under section 70, the Development Authority may, after giving the prescribed notice,—

(a) remove, pull down, or alter any building or other work in the area included in the scheme which commences the scheme or in the erection of which or carrying out of which, any provision of the scheme has not been complied with:

(b) execute any work which it is the duty of any person to execute under the scheme, in any case where it appears to the concerned Authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by the Development Authority under this section may be recovered from the person in default or from the owner of the existing plot in the manner provided for the recovery of sums due to the Authority under the provisions of this Act.

(3) If any action proposed to be taken under sub-section (J) of this section by the Development Authority is questioned, the matter shall be referred to the State Government or any officer authorised by the State Government in that behalf; and the decision of the State Government or of the officer, as the case may be, shall be final and binding on all persons.

Power of the
Development
Authority to
evict summarily.

84. (1) If after the scheme has come into force the Development Authority considers that the scheme is defective on account of an error, irregularity or infirmity or if the scheme needs variation or modification of a minor nature, the Development Authority shall prepare and publish by notification a draft of such variation,

XIII of 1979.]

(2) The draft variation published under sub-section (1) shall include every amendment proposed to be made in the scheme, and if any such amendment relates to a matter specified in any of the clauses of sub-section (2) of section 58, the draft variation shall also contain such other particulars as may be proscribed.

(3) The draft variation shall be open to inspection of the public at the office of the Development Authority during the office hours.

(4) Not later than one month of the date of publication of the draft variation, any person affected thereby may communicate in writing his objection to the Development Authority.

(5) After receiving the objections under sub-section (4) the concerned Authority shall, after making such enquiry as it may think fit, publish the variation with or without modification by notification.

(6) From the date of the publication of the variation, such variation shall take effect as if it were incorporated in the scheme.

85. A development scheme may, at any time, be varied by a subsequent scheme made and published in accordance with this Act:

Provided that, when a scheme is so varied, the provisions of this Act, shall, as far as may be, apply to such variation and making of subsequent scheme: and the date of publication of the varied scheme shall. For the purposes of sections 63, 65, 87, 88 and 90 be deemed to be the date of publication of the scheme referred to in those sections.

86. In the event of a development scheme being withdrawn the costs of the scheme shall be borne by the Development Authority or be paid to such Authority by the owners concerned, in such proportion as the State Government may in each case determine.

power to vary development scheme-

Apportionment -
municipalities,
of section 3,
will be.

³ See footnote 1 on page 110. *wile.*

87. (1) The cost of a development scheme shall include— Cost of

- (a) all sums payable by the Development Authority which are not specifically excluded from the cost of the scheme;
- (b) all sums spent or estimated to be spent by the Development Authority in the making and in the execution of the scheme, the estimates for works included in the scheme being made on the date the notice of the scheme is published under section 70;
- (c) all sums payable as compensation for land reserved or allotted for any public purpose or purposes of the Development Authority which is solely beneficial to the owners or residents within the area of the scheme:

Xin of 1979.]

*The West Bengal Town and Country (Planning and Development)
Act, 1979.*

161

160 *The West Bengal Town and Country (Planning and Development)*

Act, 1979.

[West Ben. Act

(Chapter VIII.—Development Schemes.—Sections 88, 89.)

- (d) such portion of the amount payable for land reserved or allotted for any public purpose or purposes of the Development Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, as is attributable to the benefit accruing to the owners or residents within the area of the scheme from such reservation or allotment;
- (e) all legal expenses incurred by the Development Authority in the making and in the execution of the scheme;
- (f) the amount by which the total of the value of the existing plots exceeds the total of the value of the plots each of such being estimated at its market value on the date of the publication of the scheme under section 61 with all the buildings and works thereon on that date and without reference to improvement contemplated in the scheme other than improvements to the alteration of its boundaries.

(2) If in any case the total of the values of the plots included in the final scheme exceeds the total of the values of the existing plots, each of such plots being estimated in the manner provided in clause (f) of sub-section (1), then the amount of such excess shall be deducted in arriving at the costs of the schemes as defined in sub-section (1).

Calculation 88. For the purposes of this Act, the increment shall be deemed to be the increment by which, on the date of the publication of the scheme under section 61, the market value of any plot with reference to the improvements contemplated in the scheme, on the assumption that the scheme has been completed, would exceed on the same date the market value of the same plot estimated without reference to such improvement:

Provided that in estimating such value, the value of buildings or other works erected or in course of erection on such plot shall not be taken into consideration.

Contribution 89. (1) The cost of the scheme shall be met wholly or in part by of scheme^{ost} contribution to be levied by the Development Authority on each plot included in the scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot by the Development Authority:

Provided that—

- (a) no such contribution shall exceed the increment estimated by the Development Authority to accrue in respect of each plot;
- (b) where a plot is subject to mortgage with possession or to a lease, the Development Authority shall determine in what proportion the mortgagee or lessee on the one hand and the mortgagor or lessor on the other hand, shall pay such contribution.

(Chapter VI.—Development Schemes.—Sections 90-93.)

- (c) no such contribution shall be levied on a plot used, allotted or reserved, for a public purpose or purposes of the Development Authority, such plot being solely for the benefit of the owners or residents within the area of the scheme;
- (d) the contribution levied on a plot used, allotted or reserved for a public purpose or purposes of the Development Authority, which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, shall be calculated in the proportion of the benefit estimated to accrue to the general public from such use, allotment or reservation.

(2) The owner of each plot included in a scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

90. The amount by which the total value of reconstituted plots included in a scheme with all the buildings and works thereon allotted to the person falls short or exceeds the total value of the existing plots with all the buildings and works thereon of such person shall be deducted from or added to, as the case may be, the contribution leviable from such person each of such plots being estimated at its market value on the date of publication of the scheme under section 61 and without reference to improvement contemplated in the scheme other than improvements due to the alteration of its boundaries.

Contribution leviable from plots.

91. Any right in an existing plot which, in the opinion of the Development Authority, is capable of being transferred wholly or in part, without prejudice to the making of a development scheme to a reconstituted plot shall be so transferred and any right in an existing plot which, in the opinion of the Development Authority is not capable of being so transferred shall be extinguished:

Transfer of rights in existing plot or extension of its rights.

Provided that an agricultural lease shall not be transferred from an existing plot to a reconstituted plot without the consent of all the parties to such lease.

92. The owner or any property or right which is injuriously affected by the making of a development scheme shall, subject to provisions of section 91, if he makes a claim before the Development Authority within sixty days of the receipt of the notice from such Development Authority, be entitled to obtain an amount in respect thereof from the said Authority or from any person benefited or partly benefited from such Authority and partly from such person as the said Authority may in each case determine.

Damage in respect of property right injuriously affected by scheme.

93. (1) No amount shall be payable in respect of any property of private right of any sort which is alleged to be injuriously affected by reason of any provisions contained in the development scheme, or under any other law for the time being in force applicable to the area for which such scheme is made, no amount is payable for such injurious action.

Exclusion or limitation of damages in certain cases.

(Chapter VIII.—Development Schemes.—Sections 94-97)

(2) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provision contained in a development scheme, which with a view to securing the amenity of the area included in such scheme or any part thereof, imposes any conditions and restrictions in regard to any of the matters specified in clause (b) of section 59.

Provision for (KUS in the amount due from him.

94. If the owner of a plot included by a scheme is not provided with another plot in the scheme or if the amount to be levied from him under section 90 is less than the total amount in he deducted therefrom under any of the provisions of this Act, the net amount of his loss shall be payable to him by the Development Authority in cash or in such other way as may be agreed upon by the parties.

Provision for cases in which the value of development plots is less than the amount payable by the owner.

95. (J) If for any cause the total amount which would be due to the Development Authority from the owner of a plot to be included in the scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the said Authority shall direct the owner of such plot to make payment of such excess amount to it.

(2) If such owner fails to make such payment within the prescribed period, the said Authority shall acquire the plot of such defaulter by paying the value of such plot estimated at its market value on the date of publication of the scheme under section 61 and with due reference to improvements contemplated in the scheme, and apportion the compensation among the owner and other persons interested in the plot, and (hereupon the plot included in the scheme shall vest absolutely in the said Authority free from all encumbrances, but subject to the provisions of this Act:

Provided that the payment, made by such Authority on account of the value of the existing plot shall not be included in the costs of the scheme.

by adjustment (if account-

96. All payments due to be made to any person by a Development Authority shall, as far as possible, be made by an adjustment in such person's account with such Authority in respect of the reconstituted plot concerned or of any other plot in which he has an interest and failing such adjustment, he shall be paid in cash or in such other way as may be agreed upon by the parties.

Payment of net amount due to Planning Authority or Development Authority.

97. (1) The net amount payable under the provisions of this Act by the owner of a plot included in a scheme may at the option of the contributor be paid at a time or in annual instalments not exceeding ten. If the owner elects to pay the amount by instalments, interest at six per cent, per annum shall be charged on the net amount payable. If the owner of the plot fails to elect the option on or before the date specified in a notice issued to him in that behalf by the Development Authority, he shall be deemed to have elected the

(Chapter VIII.—Development Schemes.—Sections 98-100.)

option of paying contribution by instalments and the interest in [the contribution shall be calculated from the date specified in the notice, being the date before which he was required to make an election as aforesaid:

Provided that, where an owner defaults to pay the amount at a time but fails to do so interest at six *percent, per annum* shall be payable by him to the said Authority, from the date specified in the notice to the date of payment.

(2) Where two or more plots included in a scheme belong to the same owner, the net amount payable by such owner under the provisions of this Act shall be distributed over his several reconstituted plots in proportion to the increment which is estimated to accrue in respect of each constituted plot unless the owner and the said Authority agree to a different method of distribution.

98. (1) A Development Authority shall not make any agreement with any person in respect of any matter which is to be provided for in the development scheme subject to the power of the State Government to modify or disallow such agreement unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the development scheme comes into force.

Power of
Development
Authority to
make
agreement.

(2) Such an agreement shall not in any way affect the determination of the matters standing in section 73 or the rights of third parties, but it shall be binding on the parties to the agreement:

Provided that if any agreement contains any provisions which are inconsistent with the scheme as published by the Development Authority under section 61, such an agreement shall be void;

Provided further that, if the agreement is modified by the State Government, either party shall have the option of avoiding it if it so elects.

99. Any sum due to a Development Authority under the provision of this Act or any rule or any regulation made thereunder shall be a first charge on the plot on which it is due, subject to the prior payment of the land revenue, if any, due to the State Government thereon and if it is not paid on demand on the day on which it becomes due or on the day fixed by the said Authority, it shall be recoverable by such Authority as arrears of land revenue.

100. Where after completing and meeting all the costs of a scheme as provided in this Act, any amount from the sums paid to the Development Authority remains as surplus, such Authority shall, in consultation with the owners of the plots, spend the same amount for providing further amenities within the area of the scheme.

(Chapter VII.—Development Schemes.—Section 101.— Chapter IX.—Levy, Assessment and
Recovery of Development Charge.—Sections 102, 103.)

101. (1) The Development Authority shall complete all the works provided in a scheme within the period prescribed:

Execution or
works in the
scheme by
the
Development
Authority.

Provided that, in exceptional circumstances on application by the said Authority, the State Government may, by order in writing specifying these circumstances, grant to such Authority further extension or time as it may think fit.

(2) If the Development Authority fails to complete the work within the prescribed period or within the period extended under the proviso to subsection (1) the State Government may appoint any of its officers to complete such works at the cost of the said Authority.

CHAPTER IX

Levy, Assessment and Recovery of Development Charge.

102. (1) In accordance with the provisions of this Act, and the rules made thereunder and with the previous sanction of the State Government, every Planning Authority or Development Authority shall, by notification published in the *Official Gazette*, levy a charge (hereinafter called the development charge) on the carrying out of any development or change of use of land, for which permission is required under Chapter VII, in the whole or any part of the Planning Area, at rates not exceeding those specified in section 103:

Levy of
development
charge.

Provided that the rates may be different for different parts of the Planning Area,

(2) The charge shall be leviable on any person who undertakes or carries out such development or changes any such use.

(3) Notwithstanding anything contained in sub-sections (1) and (2) no development charge shall be levied on development, or change or use, of any land vested in or under the control or possession of the Central Government, the State Government or any local authority.

(4) The State Government may, by rules, provide for the exemption from the levy of development charge of any development or change or any use of any land specified in the rules.

103. The development charge shall not exceed—

Rates of
development
charges.

(a) for the institution of use—

- | | |
|--------------------|---------------------------|
| (i) for residence | Rs. 10 00 per sq. metre |
| (ii) for industry | Rs. 50 00 per sq. metre |
| (iii) for commerce | Rs. 200 00 per sq. metre; |

(Chapter IX.—Levy, Assessment and Recovery of Development Charge.—Section 104.)

| | |
|--|---|
| (b) for change of use— | RN. 55 00 per sq. metre |
| (i) from agriculture to residence | |
| (ii) from agriculture to industry | Rs. 205'00 per sq. metre |
| (iii) from agriculture to commerce | Rs. 40 00 per sq. metre |
| (iv) from residence to industry | Rs. 190 00 per sq. metre |
| (v) from residence to commerce | Rs. 40 00 per sq. metre |
| (vi) from industry to residence | Rs. 150 00 per sq. metre; Rs. 5 per cubic metre of the content of such building or works. |
| (vii) from industry to commerce | |
| (e) for carrying out development by erection or re-erection of any building or works | |
| | Rs. 15'00 per sq. metre |

114. (1) Any person who intends to carry out any development or to change any use of any land for which permission under Chapter VII is necessary, whether he has applied for such permission or not, or who has commenced the carrying out of any such development or has carried out such development or change of any such use, shall apply to the Planning Authority or the Development Authority for the assessment or development charge payable in respect thereof,

(2) The said Authority shall, on such application being made or, if no such application is made, after serving a notice on the person liable for development charge, determine whether or not, and if so, what development charge is leviable in respect of that development or use or change in use.

(3) The said Authority shall after giving a reasonable opportunity of hearing to the person who has made an application under sub-section (1) or who has been served with notice under sub-section (2) assess the amount of development charge:

Provided that—

- where permission under Chapter VII has not been granted for carrying out the said development, the Planning Authority or the Development Authority may postpone the assessment of the development charge;
- where the application relates to the carrying out of any development, the said Authority may refuse to assess the development charge payable in respect thereof unless it is satisfied that the applicant has an interest in the land sufficient to enable him to carry out such development, or that the applicant is able to obtain such interest and that the applicant will carry out the development within such period as the said Authority considers appropriate:

A
S. 'vwnrii:
of deve lopine
ii i charge

XIII of 1979, 1

[West Ben. Act

167

(Chapter IX—Levy, Assessment and Recovery of Development Charge.—Sections 105, 106.)
The West Bengal Town and Country (Planning and Development)
Act, 1979.

- (c) where the application relates to the change of any use, the said Authority may refuse to assess the amount of development charge in respect thereof unless it is satisfied that the change of use will be effected within such period as the said Authority considers appropriate;
- (d) the Planning Authority or the Development Authority shall deliver or serve a copy of each order on the applicant or the person concerned; and
- (e) such order or assessment, subject to the provisions of section 105 shall be final and shall not be questioned in any Court.

Appeals
against
the order of the
Planning
Authority or
the Development
Authority.

105. (1) Any person liable for such development charge dissatisfied with the order of assessment may within thirty days from the date of the order appeal to the State Government.

(2) On any appeal made under sub-section (1), an officer of the State Government appointed in this behalf shall, after giving a reasonable opportunity of hearing to such person and the Planning Authority or Development Authority concerned, pass such order as he deems fit.

Development
charge to be
charged on land
and to be
recoverable as
arrears of land
revenue.

106. (1) If any development or land is commenced or carried out or any use is changed without payment of the amount of the development charge, such development charge shall, subject to prior payment of the land revenue, if any, be a first charge upon the land involved and also in any other land in which such person has any interest.

(2) The development charge shall be recoverable as arrears of land revenue.

Levy of
civic
amenity
charge.

107. (1) Notwithstanding anything contained in the foregoing provisions of this Act, every Planning Authority or Development Authority may, in accordance with the provisions of this Act and the rules made thereunder and with the previous sanction of the State Government, by notification levy a charge (hereinafter called the civic amenity charge) for extending such civic amenity to the whole or any part of the Planning Area and at such rate as may be prescribed.

(2) The civic amenity charge shall be recoverable as arrears of land revenue.

Explanation.—For the purposes of this section, "civic amenity" shall have the same meaning as in the West Bengal Government Townships (Extension of Civic Amenities) Act, 1975.

1975.

Section 106A was inserted by 52 of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1991 < West Ben. Act VI of 1993.

CHAPTER X Finance, Accounts and Audit.

107. (1) Every Planning Authority or Development Authority (other than the [Kolkata] Metropolitan Development Authority) shall have and maintain its own fund to which shall be credited—

- (a) all moneys received by the said Authority from the State Government by way of grants, loans, advances or otherwise;
- (b) all development charges or other charges or fees received by the said Authority under this Act or rules or regulations made thereunder; and
- (e) all moneys received by the said Authority from any other source.

(2) Every such Authority may keep in current account in any branch of the State Bank of India, or any other Bank approved by the State Government in this behalf, such portion of its fund as may be prescribed and any money in excess of the said sum shall be invested in such manner as may be approved by the State Government.

108. (1) There shall be a fund for the [Kolkata] Metropolitan Development Authority to which shall be credited—

- (a) such moneys as may be paid to it by the State Government under the Taxes on Entry or Goods in [Kolkata] Metropolitan Area Act, 1972;
- (b) all moneys borrowed by it;
- (c) such other moneys as may be received by it from the State Government or from any other Authority or source.

(2) The [Kolkata] Metropolitan Development Authority shall maintain a sinking fund for the repayment of money borrowed by it, and shall every year deposit into the said fund such moneys as may be paid to it by the State Government under the Taxes on Entry of Goods into [Kolkata] Metropolitan Area Act, 1972.

(3) The money paid into the sinking fund shall be invested in such manner and in such securities as may be prescribed.

(4) The sinking fund or any part thereof shall be applied in, or towards, the discharge of the loan or part thereof for which such fund was created, and until such loan or part thereof is wholly discharged, the money standing to the credit of the fund shall be applied for no other purpose.

109. The State Government may make such grants, advances and loans to any Planning Authority or Development Authority (including the [Kolkata] Metropolitan Development Authority) as it may deem necessary for the performance of the functions under this Act and all such grants, loans and advances made shall be on such terms and conditions as the State Government may determine.

Metropolitan

Kind of Public
Planning
Authority or
Development
Authority.

Fund or Tin; |
Kolkata |
Metropolitan
Development
Authority.

Grants and
advances by
State
Government.

West Bengal
Act V of
1972.

⁴See font-size on page 110, margin.

!Ye ftioi-iolc 1 on p.iye 110. *tunc.*

XIII of 1979,1

169

*The West Bengal Town and Country (Planning and Development)
Act, 1979.*

*(Cl a pier X.—Financc, Accounts and Audit.— / 10-
IN.)*

Budget (if 110. Every Planning Authority or Development Authority shall prepare every year,
the Planning Authority or Development Authority shall prepare every year,
in such form and within such time as may be approved by the State Government, a
budget in respect of the next financial year, showing the estimated receipts and
expenditure of such Authority.

Accounts and UK (1) Every Planning Authority or Development Authority shall maintain proper
audit. accounts and other relevant records and prepare an annual statement of accounts
including the balance sheet in such form as may be approved by the State
Government.

(2) The audit of the accounts of the Planning Authority or Development
Authority shall be made by such person as may be appointed by the State
Government,

(3) The audit shall be made in such manner as may be prescribed.

(4) The auditor shall submit his report to the concerned Authority and shall
forward a copy thereof to the State Government.

Annual 112. As soon as may be after the close of a year, the Planning Authority or the
report. Development Authority shall prepare a report of its activities during the preceding
year and submit it to the State Government in such form and on or before such
date as may be prescribed.

Constitution
of Provident
fund.

113. (1) Every Planning Authority or Development Authority shall constitute, for
the benefit of its whole-time paid members, officers and other employees, in such
manner and subject to such conditions as may be prescribed, such provident funds
as it may deem fit.

(2) Where any such provident fund has been constituted, the State Government
may declare that the provisions of the Provident Funds Act, 1925, shall apply to
such fund as if it were a Government Provident Fund.

19 of 1925.

Power of 114. An Authority constituted or deemed to have been constituted under this Act,
the Planning Authority, Development Authority or Metropolitan Development
Authority to borrow money.
may, from time to time, borrow such sum of money at such rate of interest and for such period
and upon such terms, as the State Government may approve, any sum of money

required for carrying out the purposes of this Act or servicing any loan obtained by
il.

The West Bank and Gaza (Planning and Development) Act, 1979. 171

XIU or 1979.]

(Chapter XL—Supplementary and Miscellaneous Provisions.—
Section 115.)

CHAPTER XI Supplemental and Miscellaneous Provisions.

115. (1) Any officer of the Planning Authority or the Development Tower of an authority authorised in this behalf may enter into or upon any land or building with or without assistance or workmen for the purpose or—

- (a) making any enquiry, inspection, measurement or survey or taking levels of such land or building;
- (b) setting out boundaries and intended lines of works;
- (c) specifying such levels, boundaries and lines by placing marks and cutting trenches;
- (d) examining works under construction and ascertaining the course of sewers and drains;
- (e) digging or boring into the sub-soil;
- (f) ascertaining whether any land is being or has been developed in contravention of any provision of this Act or rules or regulations made hereunder; and
- (g) doing any other thing necessary for the efficient administration of this Act:

Provided that—

- (i) in the case of any building used as a dwelling house, or upon any enclosed part or garden attached to such a building, no such entry shall be made without giving the occupier at least twenty-four hours' notice in writing of the intention to enter, unless such occupier agrees;
- (ii) sufficient opportunity shall be given to enable women (if any) to withdraw from such land or building;
- (iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for entry, to the social and religious usages of the occupants of the land or building.

(2) The power of the officer under sub-section (1) shall extend only to the Planning Authority or the concerned Authority and such other area which the State Government may have directed to be included in the development plan.

(3) Any person who obstructs the entry of a person empowered or authorised under this section to enter into or upon any land or building or molests such person after such entry shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Chapter XL—Supplemental and Miscellaneous Provisions.— Sections } 16-120.)

The West Bank and Country (Planning and Development) 173

116. All documents including bills, notices and orders required by this Act or any rule or regulation made (hereunder to be served upon or issued or presented to any person shall, save as otherwise provided in this Act or rule or regulation, be effected—■

Service: of
documents.

- (a) by giving or tendering the said document to such person; or
- (b) if such person is not found, by leaving such document at his last known place of abode or by giving or tendering the same to some adult member or servant of his family; or
- (c) if this address else where is known, by forwarding such document to him by registered post under a cover bearing the same address; or
- (d) if none of the means as aforesaid is available, by causing a copy of such document to be affixed on some conspicuous part of the land or building, if any, to which the document relates.

Public notice
how to be
made known.

117. Every public notice given under this Act or rules or regulations made thereunder shall be in writing over the signature of such officer who may be authorised in this behalf by any Planning Authority or Development Authority and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by proclaiming the same by beat of drum or by advertisement in a local newspaper and by such other means which the concerned authority thinks fit.

Notice*. Lie. lu
fi\ reasonable time.

118. Where any notice, order or other document issued or made under this Act or any rule or regulation made thereunder, requires anything to be done for the doing of which no time is fixed, the notice, order or other document shall specify a reasonable time for doing the same.

Authentication
of orders and
documents of the
Planning or
Development
Authority.

119. All orders, decisions, notices and other documents of the Planning Authority or the Development Authority shall be authenticated, by the signature of the Secretary of the concerned authority or such other officer as may be authorised by the Planning Authority or the Development Authority in this behalf.

Mode of proof
of records of the
Planning
Authority or
Development
Authority.

120. A copy of any receipt, application, plan, notice, order, entry in a register, or other document in the possession of any Planning Authority or Development Authority, if duly authenticated by the person authorised by the concerned Authority, shall be received and admitted as evidence of the matters and transactions therein recorded to the same extent, as the original entry or document would, if produced, have been admissible to prove such matters.

Xin of 1979.]

The West Bengal Town and Country (Planning and Development) Act, 1979.

174

(Chapter XI.—Supplemental and Miscellaneous Provisions.— Sections 121-123.)

121. No officer or employee of any Planning Authority or Development Authority shall, in any legal proceedings to which such Authority is not a party, be required to produce any register or document the contents of which can be proved under the preceding section by a certified copy, or to appear as witness to prove the matters and transactions recorded therein, unless by order of the Court made for special cause.

Res Irk lion
on llic
summonin
g of officers
and
employees of lilt:
Planning
Authorily or
Hovel opine nt
Authoriy.

122. (L) If die person committing an offence under diis Act is a company, every person, who, at he time the offence was committed, was in charge of. and was responsible to, the company for the conduct of its business as well as the company, shall bedeemed to be guilty of theoffence and shall be liable to be proceeded against and punished accordingly:

Offences by
companies.

Provided lhal nothing contained in this sub-section shall render any such person liable lo any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission,

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been commit ted by a company and il is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secrelary or oilier officer of the company, such director, manager, secrelary or other officers shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

- (a) "company" means a body corporaleaudincludesa firm or oilier association of individuals; and
- (b) "director" in relation to a firm means a partner in the firm.

123. I f any pers on—

- (a) obstructs, or molests any person engaged or employed by any Planning Authority or Development Authority, or any person with whom any such Authority hu.s entered into a contract, in the performance or execution by such person of his duty or of anything which he is empowered or required lo do under this Act, or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary lo the execution of works authorised under this Act,

Penally for
(lhislniclion or
removing
mark.

he shall be punishable with fine which may extend to two hundred rupees or with imprisonment for a term which may extend to two months.

XIII of 1979.]

(Chapter XI.—Supplemental and Miscellaneous Provisions.—
Sections 124-132.)

Sanction of
prosecution

12-J. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Planning Authority or the Development Authority in the manner provided in section 111 or 112 in this behalf.

Impunity
in respect of

125. (1) The Planning Authority or the Development Authority concerned or any person authorised in this behalf may, either before or after the institution of proceedings, compound any offence made punishable by or under this Act.

(2) The composition of an offence under sub-section (1) shall have the effect of an order of acquittal.

Right to
appear by
recognised
agent.

126. Every party to any proceeding before the Tribunal constituted under this Act, shall be entitled to appear either in person or by his agent authorised in writing in legal behalf.

Power to
compel
attendance
or witness,
etc.

127. For the purpose of this Act, any Authority or an officer appointed under the provisions of this Act to discharge the function of the Authority or the Tribunal may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and as far as possible in the same manner as is provided in the case of Civil Court by the Code of Civil Procedure, 1908.

Jurisdiction of
courts.

128. No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try an offence punishable under this Act.

5 of 1908,

129. All fines realised in connection with prosecution under this Act shall be paid to the Planning Authority or the Development Authority concerned.

1-1110
when
realised to
In; [M]!
to Planning
Authority or
Develop-
ment
Authority

130. Every member and every officer or other employee of a Planning Authority or Development Authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

15 of 1960.

Members,
officers and
employees to be
public
servants

131. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

Provision
of finality
of order
taken in good
faith.

132. Save as otherwise expressly provided in this Act, every order passed or direction issued by the State Government or order passed or notice issued by any Planning Authority or Development Authority shall be final and shall not be questioned in any civil or other legal proceeding.

(Chapter XI.—Supplemental and Miscellaneous Provisions.— Sections 133-137.)

133. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

- (a) the existence of any vacancy, initial or subsequent, in or any defect in the constitution of any Planning Authority or Development Authority;
- (b) any person having ceased to be a member;
- (c) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or
- (d) any omission, defect or irregularity not affecting the merits of the case.

Validation of LICIS mid jM:KV:iii:uv

(2) Every meeting of any Planning Authority or Development Authority shall be presumed to have been duly convened and free from all defects and irregularities.

134. Any Planning Authority or Development Authority may, by resolution, direct that any power exercisable by it under this Act or rules or regulations made (hereunder [(except the power to make regulations)]) may also be exercised by any local authority or any officer of the State Government with previous consent of the State Government, or any officer of the Planning Authority, Development Authority or local authority as may be mentioned therein, in such cases and subject to such conditions, if any, as may be specified therein.

Power to delegate.

135. (1) Every Planning Authority or Development Authority shall carry out such directions as may be issued from time to time by the State Government for the efficient administration of this Act.

Control by the State Government.

(2) If, or in connection with, the exercise of its powers and discharge of its functions by any Planning Authority or Development Authority, any dispute arises between the Planning Authority, Development Authority, the local authority and the State Government, the decision of the State Government on such dispute shall be final.

136. Every Planning Authority or Development Authority shall furnish to the State Government such reports, returns and other information as the Government may from time to time require.

Returns and information.

137. (1) The provisions of this Act and the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Overriding effect.

*The words in brackets within the square brackets were substituted for the words and brackets "(except the power to prepare any development plan or development scheme or to make regulations)" by section 11 of the West Bengal Town and Country Planning and Development (Amendment) Act, 1993 (West Bengal Act VII of 1993).

[74 *The West Bengal Town and Country (Planning and Development)*
Act, 1979.

[West Ucn. Act

(Chapter XI.—Supplemental and Miscellaneous Provision.')—
Section 138.)

- (2) Notwithstanding anything contained in any other law—
- (a) when permission for development in respect any land has been obtained under this Act such development shall not be deemed to be unlawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under any other law for such development has not been obtained; this shall not, however, be construed as exemption from the payment of such fees and charges as required by such other law;
 - (b) when permission for such development has not been obtained under this Act, such development shall not be deemed to be lawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development has been obtained.
- (3) Notwithstanding the provisions of sub-sections (1) and (2), the provisions of the West Bengal Slum Areas (Improvement and Clearance) Act, 1972, if in conflict with the provisions of this Act, shall prevail.

Act x or 1972.

138. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the functions and powers of the Planning Authority and Development Authority;
- (b) the term of office and conditions of service of the members of the Planning Authority and Development Authority;
- (c) the qualifications and disqualifications for being chosen as, and for being, members of the Planning and Development Authorities;
- (d) the matters in which and the purpose for which any Planning or Development Authority may associate with itself any person under the provisions of this Act;
- (e) the control restriction in relation to the appointment of officers and other employees of Planning and Development Authorities;
- (f) the form and content of the "Outline Development Control Plan" and the Development Scheme and the procedure to be followed in connection with the preparation, submission and approval of such plans, schemes and the form and the manner of publication of the notice relating to such plan and scheme;

* The words within the square brackets were substituted for the words "Outline Development Plan." by s. 13(a)(i) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1972 (West Ben Act XXVI of 1972).

* The words "Detailed Development Plan" were omitted by s. 13(a)(ii) of the Act.

*(Chapter XI.—Supplemental and Miscellaneous Provisions.—
Section 139.)*

- (g) the periodical amendment of '[Land Use and Development Control Plans,] the period on the expiration of which such an amendment may be taken up, procedure to be followed in making such amendment;
- (h) the form in which any application for permission for development shall be made, the particulars to be furnished in such application and documents and plans which shall accompany such application;
- (i) the form of registration of application and the particulars to be contained in such register;
- (j) The manner of filing, and the fees to be paid for and the procedure** to be followed in, appeals;
- (k) the manner in which an acquisition notice is to be served, and claim for compensation is to be made, the time within which such claim is to be made and the procedure to be followed for assessment of compensation;
- (l) procedure for the levy of development charges and exemption from it on any development or change of any use or any land;
- (m) the manner, in which application for the assessment of** development charge is to be made;
- (n) the sum of money that may be kept in current account; (o) the form of the budget of Planning and Development Authorities, the date on or before which it shall be prepared, the manner of preparing it and the number of copies that have to be sent to the State Government;
- (p) the form of the annual statement of accounts and balance sheet;
- (q) the form of the annual report of the Planning and Development Authorities and date on or before which it shall be submitted to the State Government;
- (r) the manner and the constitution of **provident** funds for the whole-time paid members and officers and **other** employees of Planning and Development Authorities and the conditions subject to which such funds may be constituted;
- (s) the documents of which copies may be granted and the fees for such copies; and (t) any other matter which has to be or may be prescribed by rules.

139. Any Planning Authority or Development Authority may, with the Power to previous approval of the State Government, make regulations consistent with this Act and the rules made thereunder, to carry out the purposes or this Act and without prejudice to the generality of this power such regulations may provide for,—

- (a) the time and place or holding and procedure to be followed in meetings of the Planning Authority, Development Authority and Advisory Committee, and the number of members necessary to form a quorum therein;

The words within the square brackets were substituted for the words "development plans." by s. 13(b) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 199-1 (West Den. Ad XXVI of 1594).

(Chapter XI.—Supplemental and Miscellaneous Provisions,— Sections 140-142.)

- (b) the powers and duties of the officers and employees of the Planning Authority and Development Authority;
- (c) the salaries, allowances and conditions of service of its officers and employees;
- (d) the terms and conditions for the continuance of use of any land used otherwise than in conformity with a development plan; and
- (e) any other matter which has to be or may be prescribed by rules.

140. All rules made under this Act shall be laid for not less than thirty days, before the State Legislature, as soon as may be, after they are made and shall be subject to such modifications as the Legislature may make during the session in which they are so laid or the session immediately following.

Laying of
rules before
State
Legislature.

141. (1) Where the State Government is satisfied that the purposes for which any Planning Authority or Development Authority was established under this Act have been substantially achieved so as to render the continued existence of such authority unnecessary, it may, by notification, declare that the authority in question shall be dissolved with effect from such date as may be specified in the notification, and the concerned authority shall stand dissolved accordingly.

1) ion
of Planning
and
Development
Authority
is

(2) With effect from the date specified in sub-section (1) —

- (a) all properties, funds and dues which are vested in, or realisable by, the Planning or the Development Authority shall vest in or be realisable by the State Government;
- (b) all liabilities which are enforceable against the concerned authority shall be enforceable against the State Government; and
- (c) for the purpose of realising properties, funds and dues referred to in clause (a), the functions of the Planning or Development Authority shall be discharged by the State Government.

142. (1) The [Kolkata] Metropolitan Development Authority Act, 1972, and the [Kolkata] Metropolitan Planning Area (Use and Development of Land) Control Act, 1965 shall stand repealed with effect from the date on which the [Kolkata] Metropolitan Planning Area as referred to in section 16 of this Act is declared to be a Planning Area under sub-section (1) of section 16 of this Act.

Deposited
Savings.

(2) The Durgapur (Development and Control or Building Operations) Act, 1958 shall stand repealed with effect from the date on which the Durgapur area as defined in that Act is declared to be a Planning Area under sub-section (1) of section 9 of this Act.

Ww fieri.
Act XI of
1972.
West Ben.
Act XIV of
1965.

(3) Notwithstanding repeal of the Acts referred to in sub-sections (1) and (2), anything done or any action taken under the provisions of the said Acts or rules or regulations made thereunder, shall be deemed to have been done or taken under the provisions of this Act; and all such rules or regulations shall, if not inconsistent with the provisions of this Act, continue in force until rules or regulations are made under this Act.

West Ben.
Act XXVII of
1958.

XIII of 1979.]

*The IVwr Bengal Town tind Country (/laling and Developmeni)
Act, 1979. (First Schedule.)*
177

FIRST SCHEDULE

(See see I ion 16.)

"[Kolkala] McirapoliUin Planning Area" comprises the areas included williin (lie boundaries of die "[Kolkala] Metropolitan Area specified below except that it does not comprise any area included in a cantonmct declared 2 uf 192-J. as such under scction 3 of the Cantonments Aci, J 924.

'[Kolkala] Meiropoliian Area

Tlie '[Kolkataj Metropolitan Area is die area comprised of land situated on the west and east banks ofthe river Hooghly, lhe respective boundaries of which are as follows, namely:—

A. Wcsl-bank or llie river Hooghly

1. Norlliern boundary

In District Hooghly:

A Imeslaningli'Dimlie point where a straight line drawn cast ward along lhe northern bound a 17 of jnouza Jatrasudi (J, L. No. 30) meets the eastern boundary-line of the Hooghly District in the river Hooghly and proceeding westward along the northern boundaries of mcui/as Jatrasudi (J.L. No. 30). Rcfaitpur (J.L. No. 29). Banipur (J.L. No. 34), north-western boundary of mouza Tri ben i Baikuiihnpur (J. L.No. 36). and iiorlliern boundary or mouza Amodghata (J.L. No. 40) within P.S. Magra.

2. YVeslern boundary hi District Hooghly:

The aforesaid line then bends southward and runs along the western boundaries of the said mouzn Ajnoilghata(J.L. No, 40) and mou/_a Aikhoja (J.L. No. 43) wilhin P.S. Magra,

Thereafter il follows the western boundary of mouza H 05 an a bad (J.L. No. 14&), north-western of mouzaJhanpafJ.L. No, 150), western of mo Lizas, Tarabihari (J.L. No. 151), Nandipur (J.L. No. 155). Paiicharakhi (J.L. No. 154), Amarpur (J.L. No. 176), south-western of mouza MahespurfJ.L. No. 178), and western of mouza Bliushanara (J.L. No. 192) within P.S. Polba;

Thereafter the same line follows the western boundaries or niot)7.as Khalishani (J.L. No. 1), Belkuli (J.L. No. 2), Bcjr(J.L. No. 4), northern and western of mouza Garzi (J.L. No. 6), western and southern or mouz.a B i glint i (J.L. No, 14) within P.S. Bhndreswar;

Then the said line follows the western boundary of Baidyabati Municipality:

It then follows the western boundaries of mouzas; Pimapur (J.L. No. 7), Belli mi Iki (J.L. No. 11), Madpur (J.L. No. 20), Bimgihali (J.L. No. 21), Jagannaihpur (J.L. No. 26), Bamunar' (J.L. No. 25) and northern boundary of mouza Bliadua (J.L. No. 23) within P.S. Serampur;

Then the line follows the north-western boundary of mouza Chakundi (J.L. No. 94), north-western and western boundaries of mouza Daukuni (J.L. No. 93), western boundary of mouza Monoharpur (J.L. No. 98), and western and southern boundary of mouza Mrigala (J.L. No. 102) up to the northern boundary line of District Howrah within P.S. Chanditala;

In District Howrah:

The same line then follows the northern and western boundary-line of mouzas Baigachhi (J.L. No. 1), western and southern of Jangalpur (J.L. No. 2) and western of Chumrail (J.L. No. 5) within P.S. Bully;

Then it runs south-westward along the north-western boundary of mouza Pakuria (J.L. No. 54), north-western and western of mouzas Teniulkuli (J.L. No. 53), Kantlia (J.L. No. 50) and Ankurhali (J.L. No. 30) and eastern, northern and western boundaries of mouza Ripra Naopara (J.L. No. 27) within P.S. Domjur;

Then it runs along the northern boundary of mouza Jangalpur (J.L. No. 22) and Argari (J.L. No. 27) within P.S. Sankrail;

Then it runs along the northern boundary of mouza Sankharidaha (J.L. No. 28) and Argari (J.L. No. 27) within P.S. Sankrail;

Thereafter it follows the northern and western boundaries of mouza Anpara (J.L. No. 28) and western of mouzas -Salgaria (J.L. No. 27) and Belkulia (J.L. No. 31) within P.S. Panchla;

It then follows the northern, western and south-western boundaries of mouza Raghudhpur (J.L. No. 99), western of mouzas Balarampura (J.L. No. 103) and Decbaliaga (J.L. No. 104), north-western of mouzas Chengail (J.L. No. 105), northern and western of mouza Jangalpur (J.L. No. 95), western of mouzas Koialghatu (J.L. No. 167), Fuleswar (J.L. No. 108), Lalipur (J.L. No. 106) and BahirGangarampur (J.L. No. 85) within P.S. Ushberia.

3, Southern boundary

In District Howrah:

The aforesaid line then takes a sharp bend towards the east following the southern boundaries of the said mouza BahirGangarampur (J.L. No. 85) and mouza Uluberia (J.L. No. 109) within P.S. Uluberia; and thereafter it proceeds further eastward in a straight line and meets the eastern boundary-line of Howrah District in the river Hooghly.

XIII of 1979.]

The West Bengal Town and Country (Planning and Development) Act, 1979. (First Schedule.)

4. Eastern boundary;

Thereafter the same line proceeds northward following the eastern boundary-line or Disirui Howrali and Hooghly in the river Hooghly and meets the starting point of the northern boundary.

B. East-bank of the river Hooghly

1. Northern boundary in District Nadia:

A line starting from the point where a straight line drawn westward along the northern boundary of mouza Mnjher Char (J.L. No. 54) meets the western boundary-line of the Nadia District in the river Hooghly and proceeding eastward along the northern boundaries of mouzas Majher Char (J.L. No. 54), Gusiia (J.L. No. 61), Jailabhaii (J.L. No. 65), Chak Manikkanda (J.L. No. 66), northern and north-eastern of mouza Liza Malibabaii (J.L. No. 68), northern of mouza Dakshiu Bhabaiipur (J.L. No. 69), northern and northeastern of mouza Gopalpur (J.L. No. 75), western, northern and northern-eastern of mouza Raghunaiipur (J.L. No. 82), north-western and northern of mouza Degachhia (J.L. No. 88) within P.S. Chakdaha;

2. Eastern boundary in District Nadia:

The said line then bends southward and runs along the eastern boundaries of the said mouza Degachhia (J.L. No. 88) and mouza Gayespur (J.L. No. 87), southern boundary of mouza Kanpur (J.L. No. 86) and southern boundaries of mouzas Gokulpur (J.L. No. 73) and Satrapara (J.L. No. 72) within P.S. Chakdaha;

In District 24-Parganas:

Thereafter the same line follows the south-eastern and southern boundaries of mouza Palladaha (J.L. No. 5); then it sharply bends southward following the eastern boundary line of the Kauchrapara Municipality and then it runs along the northern, eastern and southern boundaries of mouza Sroiribaii (J.L. No. 20), eastern and southern of mouza Chandua (J.L. No. 18), southern of mouza Jetia (J.L. No. 16), southern eastern of mouza Manna (J.L. No. 15) and eastern of mouza Jadunaihbaii (J.L. No. 12) within P.S. Bijpur;

Then the same line proceeds along the eastern and southern boundaries of mouza Rajendnipur (J.L. No. 10), southern eastern of mouza Naihaii (J.L. No. 3) and eastern of mouza Dculpara (J.L. No. 5) within P.S. Naihaii;

Thereafter it follows the eastern and south-eastern boundaries of mouza Madrail (J.L. No. 2), eastern boundaries of mouzas Narayanpur (J.L. No. 4), Mundia (J.L. No. 10), Vidyadhrapur (J.L. No. 17), south-eastern and southern of mouza Rnhula (J.L. No. 22), eastern of mouza Muljor (J.L. No. 17), north-eastern, eastern and southern boundaries of mouza Gurdaha (J.L. No. 21) and eastern of mouza Gurdaha (J.L. No. 21) and eastern of mouza Pahapara (J.L. No. 25) within P.S. Jagaddal;

Then it runs along the eastern boundary of mouza Bnbanpur (J.L. No. 1) and then proceeds eastward along the northern boundaries of mouzas Jafarpur (J.L. No. 9), Mohanpur (J.L. No. 3) and Tulinipara (J.L. No. 10) and again bends southward along the eastern boundary of the said mouza Tolinipara (J.L. No. 10) and north-eastern of mouza Nilganja (J.L. No. 13) within P.S. Tilagarh;

Thereafter (the same line proceeds further eastward along the northern boundaries of mouzas Salurhat (J.L. No. 13), Rangapur (J.L. No. 12), Kokapur (J.L. No. 11), Baibaria (J.L. No. 8), Chaturia (J.L. No. 34), Napam (J.L. No. 53), Palpakuria (J.L. No. 82), Naliakur (J.L. No. 100), Mumli (J.L. No. 99), Wandalgauti (J.L. No. 98), then it bends southward following the eastern boundaries of mouzas Sikdespukhiira (J.L. No. 95), Bara (J.L. No. 113), Sarbaria (J.L. No. 112), Kubcipur (J.L. No. 108), Chamligari (J.L. No. 109), Kayeniba (J.L. No. 171), Dagband Saibaria (J.L. No. 172) and south-eastern of mouza KrishnapurMadanpur (J.L. No. 18), then it sharply bends north-westward following the southern and northern western boundaries of the said mouza Krisluipur Madanpur (J.L. No. 181), southern of mouza Bagberia (J.L. No. 68), eastern of mouza Knchuz (J.L. No. 66), eastern southern and western of mouza Siugliapara (J.L. No. 65), western of the said mouza Kaochius (J.L. No. 68), south-eastern and southern boundaries of mouza Digberia (J.L. No. 74), southern boundary of mouza Abtlalpur (J.L. No. 53), then the line again bends southward along the south-eastern boundary of mouza Chaudnagar (J.L. No. 44), eastern and south-eastern of mouza Deharia (J.L. No. 45), south-eastern of mouza Gonnaear (J.L. No. 49), north-eastern of mouza Donnagar (J.L. No. 48) within P.S. Garasat;

Then it follows the eastern boundary of mouza Gani (J.L. No. 1), eastern, south-eastern and southern of mouza Gopalpur (J.L. No. 2), south-eastern of mouzas Aighara (J.L. No. 10), and Teghari (J.L. No. 16), eastern of mouzas Krishnapur (J.L. No. 17), and Mahishbalhan (J.L. No. 15) within P.S. Rajarhat;

Then it follows the north-eastern and eastern boundaries of mouza Dhapa Manpur (J.L. No. 1) within P.S. Bhangur;

XIII or 1979.]

1S1

The IVtj/ Bengal Town and Country Settlement and Development Act, 1979.

Thereafter [lie same line runs along [lie southern boundmies of mouzas Dhapa{J.L. No. 2) and Choubaga(J.L., No. 3), eastern boundaries of mouzas Nonadanga (J.L. No. 10), Madurdalia{J.L. No. 12). Kalikapur(J.L. No. 20), B a r a k h o l a (J. L. N o. 21), no r t h - e a s i c r n a n d e a s t e r n o f m o L I z a C h a G a n i a g a c h h i (J.L. No. 24) and casLeni of mouza Cliak Garia (J.L. No. 26) wiihin P.S. Tollygunge;

Then il runs along the northern and eastern boundaries of mouza Dlielua (J.L. No. 43), north-eastern of mouza Tentulbaria (J.L. No. 44), northern and eastern of mouza Kamrabad (J.L. No. 41) eastern of mouza Gorkltara (J.L. No. 22), eastern and southern of mouza Sonarpur (J.L. No. 3^J), thereafter il proceeds southward along the eastern boundary-line of Rajpur Municipality, and then along Lhe eastern boundaries of mouzas Cliak I-Iarinabhi (J.L. No. 33) and Bangiadharpur (J.L. No. 34) within P.S. Sonarpur;

Then it proceeds souihwrđ along llie eastern boundary-line of Rajpur Municipality and thereafter it follows the eastern boundaries of mouzas Mallikpur (J.L. No. 10), Gancspur (J.L. No. 12), Sultanpur (J.L. No. 16), B alalia (J.L. No. 17), Kapindapur (J.L. No. 15). B a m i p u r (J.L. No. 31) and Bcliaghaia (J.L. No. 67) within P.S. Baruipur;

3. Southern boundary

In disLrieL 24-Parganas:

The aforesaid line then **Lakes a Lurn** towards lhe west following the southern boundary of Lhesaid west mouza Bcliaghaia(J.L. No. 67), southern boundaries ormouzasSasan (J.L. No. 66), PasuhimMadhabpur (J.L. No. 51), Sanpukuria (J.L. No. 50), southern and western of mouza Nihata (J.L. No. 49). western of mouza Madhya Kalyanptir(J.L. No. 42), south-western of mouza Dhopagachhi (J.L. No. 43) within P.S. Baruipur;

Th e n i t f o l l o w s **Lhe** so utliem a n d w e s i c r n b o u n d a r i e s o f m o u z a B a r a g a c h h i a (J.L. No. 86), then it runs northward following the western boundaries of mouzas Srikrishnapur (J.L. No. 85). Baragachhia (J.L. No. 84), Bamli (J.L. No. 83), Raghuitatlipur(J.L. No. 68), then it lakes alum towards the west and follows lhe southern boundary of mouza Jayanpur (J.L. No. 66). eastern, southern and western of mouza Hogalkuria (J.L. No. 67), south-western of mouzas Ban Hugli (J.L. No. 65) and Danga (J.L. No. 64) within P.S. Sonarpur;

Thereafter lhe line follows the southern boundaries of mouzas Magurkhali (J.L. No. 35), Ramjibanpur(J.L. No. 34), Sajnaberia (J.L.No. 33), Gopalnagar (J.L. No. 32), Kalua (J.L. No. 22), Hanspukuria (J.L. No. 20) wiihin P.S. Behala;

The West Bengal Town and Country (Planning and Development) Act, 1979.
(Second Schedule.)

182

It then proceeds along the southern boundaries of mouzas Kalagachhia (J.L. No. 40), Senkhacipota (J.L. No. 36), Naoabad (J.L. No. 35), Klianberia (J.L. No. 32), Chandigar (J.L. No. 31), Sibhugli (J.L. No. 21) and Rameswarpur (J.L. No. 20) within P.S. Mahestola;

Thereafter the same line follows the southern boundaries of mouzas Betuabai Rajampur (J.L. No. 26), Sanloshpur (J.L. No. 25), Jliar Raipur (J.L. No. 15), Benjan Saria Charial (J.L. No. 13), eastern and southern of mouza Nischiitapur (J.L. No. 35) and southern of mouzas Uttar Ramchandrapur (J.L. No. 37), Ragliunathpur (J.L. No. 40), Rajampur (J.L. No. 41), Achhiptir (J.L. No. 44) within P.S. Budge Budge: and then it proceeds further **westward** in a straight line and meets (the western boundary-line of District 24-Parganas in the river Hooghly.

4. Western boundary

Thereafter the same line proceeds northward following the western boundary-line of District 24-Parganas. [Kolkata], District—24 Parganas and Nadia in the river Hooghly and meets the starting point of the northern boundary.

Explanation.—The expression "[Kolkata]" means the area comprised within the local limits for the time being of the ordinary original civil jurisdiction of the High Court at [Kolkata].

SECOND SCHEDULE (iSee section 27.)

A. Amendments to the '[Kolkata] Improvement Act, 1911 (Ben. Act Vol' 1911).

1. In sub-section (2) of section 17, for clause (a), the following clause shall be substituted, namely:—

"(a) the Chairman—such period not exceeding three years as may be fixed by the State Government:

Provided that the State Government may, if it thinks fit, extend or reduce the period from time to time."

2. For section 177, the following sections shall be substituted, namely:—

"Power of State Government. (1) If in the opinion of the State Government it is necessary so to do with a view to better co-ordination and speedier execution of development work and maintenance thereof the State Government may, by an order published in the *Official Gazette* and mentioning therein the reason for the order, supersede the Board for such period as may be specified in the order.

'SW'fonl-nnlc I nnpagu 110. ami'.

(2) For the removal of doubts it is hereby declared that no notice whatsoever is required to be given to the Board for submission of any representation before making any such order of supersession under sub-section (1).

(3) The State Government may, if it considers necessary so to do, by order, extend or modify from time to time the period of supersession.

Consequences of 177A. (1) When an order of supersession has been made under section 177, then with effect from the date of the order—

- (a) all Trustees of the Board and all members or other persons constituting committees shall vacate their respective offices;
- (b) all properties, funds and dues which are vested in or realisable by the Board and the Chairman, respectively shall vest in and be realisable by the '[Kolkata] Metropolitan Development Authority;
- (c) all contracts and liabilities which are enforceable by or against the Board shall be enforceable by or against the '[Kolkata] Metropolitan Development Authority; "
- (d) all the powers and duties which may, under the provisions of this or any other Act or any rule, regulation, bye-law, order or notification made thereunder, be exercised or performed by the Board, committee or the Chairman shall be exercised or performed by the '[Kolkata] Metropolitan Development Authority;
- (e) all legal proceedings instituted by or against the Board may be continued or enforced by or against the '[Kolkata] Metropolitan Development Authority;
- (f) all officers and other employees of the Board continuing in office immediately before the date of the order shall be deemed to be employed by the '[Kolkata] Metropolitan Development Authority on such terms and conditions not being less advantageous than what they were entitled to immediately before the said date.

(2) The State Government shall, before the expiration of the period of supersession, reconstitute the Board in accordance with the provisions of this Act.

(3) The State Government may make such incidental or consequential orders as may appear to it to be necessary for giving effect to the order made under sub-section (1) or (3) of section 177 or under sub-section (2) or this section."

¹See footnote 1 on page 110, *ante*.

XIII of 1979.]

185

The Urban Bengal Town and Country (Planning and Development) Act, 1979.

(2) The State Government shall, before the expiration of the period of supersession, reconstitute the Board in accordance with the provisions of this Act.

(3) The State Government may make such incidental or consequential orders as may appear to it to be necessary for giving effect to the order made under sub-section (1) or (3) of section 184 or under sub-section (2) of this section."

C. Amendment to the '[Kolkata] Metropolitan Water and Sanitation Authority Act, 1966 (West Bengal Act XIII of 1966).

After section 190, the following sections shall be inserted, namely:—

"Power of State 90A, (1) If in the opinion of the State Government it is necessary so to do with a view to better co-ordination and acceleration of the execution of the development work and maintenance thereof the State Government may, by an order published in the *Official Gazette* and mentioning therein the reason for the order, supersede the Authority for such period as may be specified in the order,

(2) For the removal of doubts it is hereby declared that no notice whatsoever is required to be given to the Authority for submission of any representation before making any such order of supersession under sub-section (1).

(3) The State Government may, if it considers necessary so to do, by order, extend or modify from time to time the period of supersession.

Consequences 90B. (1) When an order of supersession has been made under section 90A, then with effect from the date of the order—

- (a) all Directors and members of the Authority shall vacate their offices;
- (b) all properties, funds and dues which are vested in or realisable by the Authority shall vest in and be realisable by the '[Kolkata] Metropolitan Development Authority;
- (c) all contracts and liabilities which are enforceable by or against the Board shall be enforceable by or against the '[Kolkata] Metropolitan Development Authority;
- (d) all the powers and duties which may, under the provisions of this or any other Act or any rule, regulation, bye-law, order or notification made thereunder, be exercised or performed by the Authority shall be exercised or performed by the '[Kolkata] Metropolitan Development Authority;

[West Ben. Act XIII of 1979.]

The West Bengal Town and Country (Planning and Development) Act, 1979. (Second Schedule.)

- (c) all legal proceedings instituted by or against the Authority may be continued or enforced by or against the [Kolkata] Metropolitan Development Authority;
- (1) all officers and other employees of the Authority continuing in office immediately before the date of the order shall be deemed to be employed by the [Kolkata] Metropolitan Development Authority on such terms and conditions not being less advantageous than what they were entitled to immediately before the said date.
- (2) The State Government shall, before the expiration of the period of supersession, re-establish the Authority in accordance with the provisions of this Act.
- (3) The State Government may make such incidental or consequential orders as may appear to it to be necessary for giving effect to the order made under sub-section (1) or (3) of section 90A or under sub-section (2) of this section."

'See foot-note 1 on page 110,

(3) The State Government may amalgamate two or more Planning Areas into one Planning Area, sub divide a Planning Area into different Planning Areas and include such sub-divided areas in any other Planning Area.

(4) The State Government may, by notification, direct that all or any of the rules, regulations, orders, directions and powers made, issued,

or conferred under this Act, or deemed to have been made, issued or conferred under this Act and in force in any Planning Area at the time, with such exceptions, adaptations and modifications as may be considered necessary by the State Government, shall apply to the area amalgamated with, or included in, the other Planning Area under this section and such rules, regulations, orders, directions and powers with such exceptions, adaptations and modifications, if any, shall forthwith apply to the said area without further publication in the *Official Gazette*.

(5) When Planning Areas are amalgamated or sub-divided, or such sub-divided areas are included in other Planning Areas, the State Government shall, after consulting the Planning Authority or the Development Authority concerned, frame a scheme determining what portion of the assets of the Planning Authority or the Development Authority shall vest in the Planning Authority or the Development Authority concerned, and in what manner the properties and liabilities of the Planning Authority or the Development Authority shall be apportioned amongst them and on the scheme being published by notification, such fund, property and liabilities shall vest and be apportioned accordingly.

(3) Every Planning Authority or Development Authority constituted under sub-section (1) shall consist of a Chairman and not more than thirteen but not less than seven other members to be appointed by the State Government.

(4) The State Government may appoint a local authority or any other authority or Corporation (statutory or otherwise), or any officer of the State Government, as the Planning Authority or the Development Authority for the area within the jurisdiction of that authority.

¹Sub-section (h) was substituted for the original by s. 6(a)(ii) of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994 (West. Sen. Act XXV of 1994).

²The words within the square brackets were substituted for the words "development plan" by s. 0(b). *ibid*.

³Foot-note 1 on p. 11 L. VII.

Foot-note 1 in n: c t \Q. atri,